SENATE—*Monday, February 9, 1970*

The Senate met at 10 o'clock a.m. and was called to order by the President pro tempore (Mr. RUSSELL).

The PRESIDENT pro tempore. The Senate will be led in prayer by the Reverend Henry Edward Russell, D.D., minister of the Second Presbyterian Church, Memphis, Tenn.

The Reverend Henry Edward Russell, D.D., offered the following prayer:

Almighty God, everlasting Sovereign, we bless Thy name that we may call Thee our Father, and know that we are, in a mysterious yet true sense, Thy children. As the Senate of the United States opens for this day, we thank Thee that in Thy providence Thou hast made and kept us a nation. Grant this Senate and all our citizens grace to rightly remember the past that we may properly prepare for the future. As we are finite creatures in eternity and in time, grant us capability and the will to use the present day well.

Give these Thy servants the grace of sensitive awareness as they bear the responsibility of events of profound significance day by day.

Save us from the facile use of noble words that rob us of their meaning.

Give, O God, we beseech Thee, vitality to the rich values of language. Let Thy servants be prepared in all of the prerequisites of readiness for an age such as this. We know a new decade, and we sense a new epoch; match Thy servants with their day. As the wistful winds of wonder blow upon the earth again, wilt Thou, who hast been our help in ages past and art our hope for years to come, grant us Thy protection and guidance in this marvelous age.

We thank Thee that we may ask for the forgiveness of sins, known and unknown. We bless Thy name that we may anticipate Thy continuing, loving favor through Jesus Christ our Lord. Amen.

WELCOME TO THE REVEREND HENRY EDWARD RUSSELL

Mr. MANSFIELD. Mr. President, I want, first, to express my appreciation to the brother of the distinguished President pro tempore of the Senate—the dean of this body—for offering the prayer before the Senate this morning.

Those of us who know our beloved President pro tempore are also happy to note that his brother was honored by the President in conducting the religious services at the White House yesterday morning.

It is our further understanding that a large portion of the Russell clan attended that service on yesterday.

On behalf of the Senate, I want to say how honored we feel that the brother of our President pro tempore, Dr. Henry Russell, was given this double opportunity to officiate both at the White House and in the Senate of the United States on succeeding days.

We are honored and delighted.

Mr. SCOTT. Mr. President, this is the kind of union of church and state that I think we all welcome.

It is a great honor, indeed, for all of us to have this opportunity to be prayed over publicly by the brother of our distinguished President pro tempore and, I have no doubt, privately by the President pro tempore himself.

The PRESIDENT pro tempore (Mr. RUSSELL). May the Chair state, on his personal behalf and on behalf of the Russell clan, that the Chair expresses his thanks to the majority and minority leaders.

Mr. STENNIS. Mr. President, I join the sentiments of the majority and minority leaders, and our distinguished President pro tempore, to say what a special personal privilege it is to me to see the Reverend Henry Russell once again and to have him open our session with prayer.

He is a man of great spiritual force. He is renowned as a minister—truly one of the greatest we have in the Nation today.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, February 6, 1970, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that statements in relation to the transaction of routine morning business be limited to 3 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDENT pro tempore. The nomination on the Executive Calendar will be stated.

U.S. MARSHAL

The legislative clerk read the nomination of Laurence C. Beard, of Oklahoma, to be U.S. marshal for the eastern district of Oklahoma.

The PRESIDENT pro tempore. Without objection, the nomination is confirmed.

Mr. MANSFIELD. Mr. President, I move that the President be immediately notified of the confirmation of this nomination.

The PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to; and the Senate resumed the consideration of legislative business.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MANSFIELD in the chair). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. YOUNG of Ohio. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BYRD of West Virginia in the chair). Without objection, it is so ordered.

THE TRAGEDY OF VIETNAM WILL AFFLICT FUTURE GENERATIONS OF AMERICANS

Mr. YOUNG of Ohio. Mr. President, more than 50,000 Americans have been killed in action in Vietnam, or killed in what Pentagon terms "accidents and incidents" which are in reality combat deaths and would have been so reported in World War II. Also, more than 260,000 men of our Armed Forces have been wounded. Due to the fact that the VC have no airplanes or helicopters in South Vietnam and due to the tremendous scientific advances of medical and surgical sciences in our country, many of our fighting men's lives have been saved. In former wars these men would have otherwise died from wounds.

Without a doubt, 100,000 of those very seriously wounded would have died in any previous American war. However, almost immediate evacuation of combat casualties by helicopter and then attention by well-trained surgeons and nurses have saved many, many thousands of lives.

For example, last October 31, Pfc. Ronnie Boggess, a point man of a squad

near Songbe close to the border of Cambodia, walked into an ambush. His left leg was blown away, his left arm shattered, and a bullet tore away a large chunk of muscle and bone of his left shoulder. In World War II this fine 20-year-old youngster would certainly have died of wounds, probably within the hour. A helicopter evacuated him immediately. A surgeon applied the latest procedures known. The result was that on Christmas Day he was in Walter Reed Hospital able to talk cheerfully with his best girl from Decota, W. Va., and with members of his family.

Here is one of some thousands of examples. That these young men live is a matter for happiness and joy. On the other hand, Ronnie Boggess and from 50,000 to 100,000 other young veterans are maimed for life and will suffer disability as long as they live.

An Army study taken at random of 1,000 young men recently honorably discharged because of wounds disclosed nearly 300 were amputees. Another 250 suffer from paralysis of their arms and legs or both and 140 suffer from what medical men term "impairment of sense organs." Furthermore, it is sad to report that three times as many American soldiers have been blinded in combat in Vietnam than were blinded in all sectors of the fighting in World War II. All this is very, very sad for the young men and their families. All this is a matter of grave concern for all Americans. For many, many years these wounded veterans will be living relics of the bitterest and most terrible blunder ever made by a President of the United States and by his advisers such as Dean Rusk and the generals of the Joint Chiefs of Staff representing the military-industrial complex.

They are the ones responsible for involving our Nation in a civil war in a little country of no importance whatever to the defense of the United States. They are guilty of bringing about a national insanity which resulted in sending more than 2,100,000 young Americans at different times from 1964 to 1970 to fight in a small Asiatic country 10,000 miles distant from our shores an immoral and unpopular undeclared war in our unjustified intervention in a civil war in Vietnam.

We Americans have reason to be proud of the superb medical treatment given our youngsters on the field of battle and in hospitals in Okinawa, Clark Air Base in the Philippine Republic, and in Walter Reed Military Hospital in Washington and other of our Army hospitals throughout the world.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. YOUNG of Ohio. Mr. President, I ask unanimous consent that I be permitted to continue for 2 additional minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. YOUNG of Ohio. Mr. President, unfortunately, the hospitals of the Veterans' Administration throughout the United States are inadequate. They are in fact geared to the care of older veterans of World Wars I and II. In the Veterans' Administration hospitals there are only a comparatively few beds not occupied by veterans of our earlier wars, many of whom are there because of syphilis and diseases claimed to have been contacted in those wars. Not many are there as result of wounds received in combat. Many of the patients of Veterans' Administration hospital are mental cases consistently kept tranquilized in "chemical cocoons" according to Dr. Louis J. West, a prominent member of the Veterans' Administration medical staff.

American taxpayers throughout the succeeding 50 years will bear a heavy financial burden for disability payments and hospital care for those men who served in Vietnam. Furthermore, the end is not yet in sight. Will it be an additional part of the tragic history of our Vietnam war that our Government will not pay for the proper care of these permanently wounded and maimed veterans? Many of these now young men were drafted. Many are not to be blamed for waging this most unpopular war in the entire history of our republic and the longest and the bloodiest of all foreign wars waged in our history. Most went to Vietnam and Thailand because they were ordered to go there. They are entitled to have and must be given the best medical and hospital care possible, notwithstanding that in thousands of cases this care will continue as long as they live.

PETITION

A petition was laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A concurrent resolution of the General Assembly of South Carolina; ordered to lie on the table:

"S. 534

"Concurrent resolution memoralizing the Congress of the United States to override the President's veto of H.R. 13111, relating to an appropriation for health, education and welfare monies, and if the veto is not overridden to do all within its power to make sure that funds for education in impacted areas will be appropriated in another manner and the formula for such monies shall not be changed

"Whereas, the President of the United States has vetoed H.R. 13111, an appropriation for Health, Education and Welfare which included funds for education in impacted areas; and

"Whereas, if these funds are not appropriated in the amount as provided in this bill, it will have a serious effect upon the public schools of this State and it is entirely possible that several of the school districts will be forced to close their schools due to lack of funds before the end of the present school year, or at the very least substantial local tax increases will be required. Now, therefore,

"Be it resolved by the Senate, the House of Representatives concurring:

"That the Congress of the United States is urged to override the President's veto of H.R. 13111, which appropriates monies for Health, Education and Welfare, including monies for education in impacted areas.

"In the event the President's veto is not overridden, it is urgently requested that Congress do all within its power to make sure that these funds will be appropriated in another manner and in no less amount than that which has already been allocated this year and that the formula for monies to be used for education in impacted areas shall not be changed.

"Be it further resolved that copies of this resolution be forwarded to the Clerk of the United States Senate, the Clerk of the United States House of Representatives and each Senator and Congressman from South Carolina."

REPORTS OF A COMMITTEE

The following reports of a committee were submitted:

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, without amendment:

S. Res. 309. Resolution authorizing additional expenditures by the Committee on Interior and Insular Affairs for inquiries and investigations (Rept. No. 91–673);

S. Res. 310. Resolution authorizing additional expenditures by the Committee on Government Operations for a study of intergovernmental relationships between the United States and the States and municipalities (Rept. No. 91–670);

S. Res. 311. Resolution authorizing additional expenditures by the Committee on Government Operations for a study of certain aspects of national security and international operations (Rept. No. 91–671);

S. Res. 312. Resolution authorizing additional expenditures by the Committee on Labor and Public Welfare for inquiries and investigations (Rept. No. 91–672);

S. Res. 320. Resolution authorizing additional expenditures by the Committee on Government Operations for a study of executive reorganizations and Government research (Rept. No. 91–669);

S. Res. 322. Resolution authorizing additional expenditures by the Select Committee on Small Business (Rept. No. 91–689);

S. Res. 324. Resolution authorizing additional expenditures by the Committee on Commerce for inquiries and investigations (Rept. No. 91–667);

S. Res. 325. Resolution authorizing additional expenditures by the Committee on the District of Columbia for inquiries and investigations (Rept. No. 91–668);

S. Res. 326. Resolution authorizing additional expenditures by the Committee on Public Works for inquiries and investigations (Rept. No. 91–690);

S. Res. 331. Resolution authorizing additional expenditures by the Committee on Armed Services for inquiries and investigations (Rept. No. 91–666);

R. Res. 333. Resolution authorizing additional expenditures by the Committee on the Judiciary for a study of administrative practice and procedure (Rept. No. 91–674);

S. Res. 334. Resolution authorizing additional expenditures by the Committee on the Judiciary for an investigation of antitrust and monopoly laws (Rept. No. 91–675);

S. Res. 335. Resolution authorizing additional expenditures by the Committee on the Judiciary for a study of matters pertaining to constitutional amendments (Rept. No. 91–676);

S. Res. 336. Resolution authorizing additional expenditures by the Committee on the Judiciary for a study of matters pertaining to constitutional rights (Rept. No. 91–677);

S. Res. 337. Resolution authorizing additional expenditures by the Committee on the Judiciary for an investigation of criminal laws and procedures (Rept. No. 91–678);

S. Res. 338. Resolution authorizing additional expenditures by the Committee on the Judiciary for the consideration of matters pertaining to Federal charters, holidays, and celebrations (Rept. No. 91–679);

S. Res. 339. Resolution authorizing additional expenditures by the Committee on the Judiciary for a study of matters pertaining to immigration and naturalization (Rept. No. 91–680);

S. Res. 340. Resolution authorizing additional expenditures by the Committee on the Judiciary for a study and examination of the Federal judicial system (Rept. No. 91–681);

S. Res. 341. Resolution authorizing additional expenditures by the Committee on the Judiciary for an investigation of the administration, operation, and enforcement of the Internal Security Act (Rept. No. 91–682);

S. Res. 342. Resolution authorizing additional expenditures by the Committee on the Judiciary for an investigation of juvenile delinquency (Rept. No. 91–683);

S. Res. 343. Resolution authorizing additional expenditures by the Committee on the Judiciary for an examination and review of the statutes relating to patents, trademarks, and copyrights (Rept. No. 91–684);

S. Res. 344. Resolution authorizing additional expenditures by the Committee on the Judiciary for an investigation of national penitentiaries (Rept. No. 91–685);

S. Res. 345. Resolution authorizing additional expenditures by the Committee on the Judiciary for a study of the problems created by the flow of refugees and escapees (Rept. No. 91–686);

S. Res. 346. Resolution authorizing additional expenditures by the Committee on the Judiciary for a study of matters pertaining to revision and codification of the Statutes of the United States (Rept. No. 91–687); and

S. Res. 347. Resolution authorizing additional expenditures by the Committee on the Judiciary for a study of separation of powers (Rept. No. 91–688).

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, with an amendment:

S. Res. 308. Resolution authorizing the Committee on Government Operations to make investigations into the efficiency and economy of operations of all branches of Government (Rept. No. 91–691);

S. Res. 316. Resolution continuing, and authorizing additional expenditure by, the Special Committee on Aging (Rept. No. 91–692);

S. Res. 317. Resolution authorizing the Committee on Post Office and Civil Service to make certain investigations (Rept. No. 91–693);

S. Res. 318. Resolution to provide for a study of matters pertaining to foreign policy of the United States by the Committee on Foreign Relations (Rept. No. 91–694);

S. Res. 323. Resolution relative to extending the Select Committee on Nutrition and Human Needs through January 31, 1971 (Rept. No. 91–695);

S. Res. 327. Resolution authorizing additional expenditures by the Committee on Public Works for investigations of air, water, and environmental matters, and such other related matters (Rept. No. 91–696);

S. Res. 329. Resolution to authorize additional expenditures to the Committee on Banking and Currency for inquiries and investigations (Rept. No. 91–697);

S. Res. 330. Resolution to authorize additional expenditures to the Committee on Banking and Currency for inquires and investigations (Rept. No. 91–698); and

S. Res. 332. Resolution to authorize additional expenditures to the Aeronautical and Space Sciences Committee for inquires and investigations (Rept. No. 91–699).

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, with amendments:

S. Res. 307. Resolution to authorize expenditures for salaries and for other purposes for the Subcommittee on Privileges and Elections (Rept. No. 91–700).

BILLS INTRODUCED

Bills were introduced, read the first time and, by unanimous consent, the second time, and referred as follows:

By Mr. YARBOROUGH (for himself, Mr. RANDOLPH, Mr. WILLIAMS of New Jersey, Mr. PELL, Mr. KENNEDY, Mr. NELSON, Mr. MONDALE, Mr. EAGLETON, Mr. CRANSTON, Mr. JAVITS, Mr. PROUTY, Mr. SCHWEIKER, Mr. ALLEN, Mr. BAYH, Mr. BROOKE, Mr. BURDICK, Mr. EASTLAND, Mr. ERVIN, Mr. FULBRIGHT, Mr. GOODELL, Mr. HART, Mr. HARTKE, Mr. INOUYE, Mr. JORDAN of North Carolina, Mr. MCCARTHY, Mr. MCGOVERN, Mr. METCALF, Mr. MONTOYA, Mr. PASTORE, Mr. PERCY, Mr. RIBICOFF, Mr. SCOTT, and Mr. SPONG.)

S. 3418. A bill to amend the Public Health Service Act to provide for the making of grants to medical schools and hospitals to assist them in establishing special departments and programs in the field of family practice, and otherwise to encourage and promote the training of medical and paramedical personnel in the field of family medicine; to the Committee on Labor and Public Welfare.

(The remarks of Mr. YARBOROUGH when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. EASTLAND:

S. 3419. A bill for the relief of Capt. Claire E. Brou; to the Committee on the Judiciary.

By Mr. TALMADGE:

S. 3420. A bill for the relief of Dr. Hassan Chaharsough Vakil; to the Committee on the Judiciary.

By Mr. RIBICOFF:

S. 3421. A bill to amend the Federal Unemployment Tax Act so as to impose certain minimum benefit standards under the Federal-State unemployment compensation program; to the Committee on Finance.

(The remarks of Mr. RIBICOFF when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. MANSFIELD:

S. 3422. A bill for the relief of Vernon H. and Lisette E. Samuelson and George V. and Helen M. Samuelson; to the Committee on the Judiciary.

By Mr. CRANSTON:

S. 3423. A bill for the relief of Arvind J. Madhani, his wife, Mandakini Madhani, and their children, Parag Madhani, and Ajay Madhani; to the Committee on the Judiciary.

S. 3418—INTRODUCTION OF A BILL RELATING TO THE NEED FOR MORE PRACTITIONERS OF FAMILY MEDICINE

Mr. YARBOROUGH. Mr. President, I introduce, for appropriate reference, a bill to help medical schools and hospitals educate larger numbers of doctors in the field of family medicine.

The ACTING PRESIDENT pro tempore. Without objection, the bill will be received and appropriately referred.

The bill (S. 3418) to amend the Public Health Service Act to provide for the making of grants to medical schools and hospitals to assist them in establishing special departments and programs in the field of family practice, and otherwise to encourage and promote the training of medical and paramedical personnel in the field of family medicine, introduced by Mr. YARBOROUGH (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

Mr. YARBOROUGH. Mr. President, in 1931, three-fourths of all physicians in private practice were general practitioners. In more recent years, the demand for specialists and the preference of many doctors to specialize, has reduced the percentage of general practitioners to one-fifth of all doctors.

In the years between 1963 and 1967 along, general practitioners decreased 7.3 percent while the specialists increased as follows: Surgical specialists by 15.9 percent, medical specialists by 18.6 percent, and others 19.4 percent. The growth of the specialists was dictated by the dramatic advances in medical science that make it impossible for one man to master all the fields of medical knowledge. Surgery, pathology, internal medicine, psychiatry, pediatrics—all deserve the exclusive attention of great numbers of doctors. Today, 80 percent of the graduates from medical school prepare themselves for a specialty practice.

The result has been a growing gap between the family needing generalized health information and care for its men and women, babies, teenagers, and grandparents, who may suffer from time to time from a great variety of maladies and injuries.

Fortunately, medical practice has begun to recognize the need for new training programs for the general practitioner. In some medical schools, courses are now being offered which lead to a new "specialty"—the practice of family medicine.

The family practice doctor is trained to consider and to treat persons in the context of their family and surroundings. Preventive health is one of his major objectives.

A second function is to refer patients needing specialty care or treatment to the right person and place. In that respect he is the single contact where an entire family may go for comprehensive medical care. There are 30 million Americans who today have no access to a family physician thereby they can enter into the medical care system.

As the National Commission on Community Health Services describes the role of the family practice doctor:

> Every individual should have a personal physician who is the central point for integration and continuity of all medical and medically related services to his patient. Such a physician will emphasize the practice of preventive medicine, through his own efforts and in partnership with the health and social resources of the community.
>
> The physician should be aware of the many and varied social, emotional and environmental factors that influence the health of his patient and his patient's family. He will either render, or direct the patient to, whatever services best suit his needs. His concern will be for the patient as a whole and his relationship with the patient must be a continuing one. In order to carry out his coordinating role, it is essential that all pertinent health information be channeled through him regardless of what institution, agency, or individual renders the service. He will have knowledge of the access to all health resources of the community—social, preventive, diagnostic, therapeutic and rehabilitative—and will mobilize them for the patient.

The importance of the family practice physician is evident when we remember that the Americans most lacking medical

care are those of low and modest incomes who lack the means and the family tradition of looking for the kind of medical care they need. The rural poor, the ghetto dweller, the elderly, the migrant—these are the people who have suffered most from the decline of the general practitioner.

In February 1969, the American Medical Association approved an American Board of Family Practice, with powers to conduct examinations and grant certification to family physicians. A few medical schools are offering or developing courses leading to certification in this field, including the University of Texas Medical School at Galveston.

In order to support and stimulate this field of medical study, I am introducing legislation to authorize the appropriation of $50 million for the fiscal year ending June 30, 1971, $75 million for the fiscal year ending June 30, 1972, and $100 million for each of the next 3 fiscal years for the purpose of making grants to medical schools and hospitals to establish departments and programs in the field of family practice, and to encourage the training of medical and paramedical personnel in the field of family medicine.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (S. 3418) is as follows:

S. 3418

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Part D of title VII of the Public Health Service Act is amended to read as follows:

"PART D—GRANTS TO PROVIDE PROFESSIONAL AND TECHNICAL TRAINING IN THE FIELD OF FAMILY MEDICINE

"DECLARATION OF PURPOSE

"SEC. 761. It is the purpose of this part to provide for the making of grants to assist—

"(a) public and private nonprofit medical schools—

"(1) to operate, as an integral part of their medical education program, separate and distinct departments devoted to providing teaching and instruction in all phases of family practice;

"(2) to construct such facilities as may be appropriate to carry out a program of training in the field of family medicine whether as a part of a medical school or as separate outpatient or similar facility;

"(3) to operate, or participate in, special training programs for paramedical personnel in the field of family medicine; and

"(4) to operate, or participate in, special training programs to teach and train medical personnel to head departments of family practice or otherwise teach family practice in medical schools.

"(b) public and private nonprofit hospitals which provide training programs for medical students, interns, or residents—

"(1) to operate, as an integral part of their medical training programs, special professional training programs in the field of family medicine for medical students, interns, or residents;

"(2) to construct such facilities as may be appropriate to carry out a program of training in the field of family medicine whether as a part of a hospital or as a separate outpatient or similar facility;

"(3) to provide financial assistance (in the form of scholarships, fellowships, or stipends) to interns, residents, or other medical personnel who are in need thereof, who are participants in a program of such hospital which provides special training (accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education) in the field of family medicine, and who plan to specialize or work in the practice of family medicine; and

"(4) to operate, or participate in, special training programs for paramedical personnel in the field of family medicine.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 762. (a) For the purpose of making grants to carry out the purposes of this part, there are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1971, $75,000,000 for the fiscal year ending June 30, 1972, and $100,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"(b) Sums appropriated pursuant to subsection (a) for any fiscal year shall remain available for the purpose for which appropriated until the close of the fiscal year which immediately follows such year.

"GRANTS BY SECRETARY

"SEC. 763. (a) From the sums appropriated pursuant to section 762, the Secretary is authorized to make grants, in accordance with the provisions of this part, to carry out the purposes of section 761.

"(b) No grant shall be made under this part unless an application therefor has been submitted to, and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall have prescribed by regulations which have been promulgated by him and published in the Federal Register not later than 6 months after the date of enactment of this part.

"(c) Grants under this part shall be in such amounts and subject to such limitations and conditions as the Secretary may determine to be proper to carry out the purposes of this part.

"(d) In the case of any application for a grant any part of which is to be used for major construction or remodeling of any facility, the Secretary shall not approve the part of the grant which is to be so used unless the recipient of such grant enters into appropriate arrangements with the Secretary which will equitably protect the financial interests of the United States in the event such facility ceases to be used for the purpose for which such grant or part thereof was made prior to the expiration of the 10-year period which commences on the date such construction or remodeling is completed.

"(e) Grants made under this part shall be used only for the purpose for which made and may be paid in advance or by way of reimbursement, and in such installments as the Secretary may determine.

"ELIGIBILITY FOR GRANTS

"SEC. 764. (a) In order for any medical school to be eligible for a grant under this part, such school—

"(1) must be a public or other nonprofit school of medicine; and

"(2) must be accredited as a school of medicine by a recognized body or bodies approved for such purpose by the Commissioner of Education, except that the requirement of this clause (2) shall be deemed to be satisfied if, (A) in the case of a school of medicine which by reason of no, or an insufficient period of operation is not, at the time of application for a grant under this part, eligible for such accreditation, the Commissioner finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of students who are in their first year of instruction at such school during the fiscal year in which the Secretary makes a final determination as to approval of the application.

"(b) In order for any hospital to be eligible for a grant under this part, such hospital—

"(1) must be a public or private nonprofit hospital; and

"(2) must conduct or be prepared to conduct in connection with its other activities (whether or not as an affiliate of a school of medicine) one or more programs of medical training for medical students, interns, or residents, which is accredited by a recognized body or bodies, approved for such purpose by the Commissioner of Education.

"APPROVAL OF GRANTS

"SEC. 765. (a) A grant under this part may be made only if the application thereof is recommended for approval by the Advisory Council on Family Medicine and is approved by the Secretary upon his determination that—

"(1) the applicant meets the eligibility requirements set forth in section 764;

"(2) the applicant has complied with the requirements of section 763;

"(3) the grant is to be used for one or more of the purposes set forth in section 761;

"(4) it contains such information as the Secretary may require to make the determinations required of him under this section and such assurances as he may find necessary to carry out the purposes of this part;

"(5) it provides for such fiscal control and accounting procedures and reports, and access to the records of the applicant, as the Secretary may require (pursuant to regulations which shall have been promulgated by him and published in the Federal Register) to assure proper disbursement of and accounting for all Federal funds paid to the applicant under this part; and

"(6) the application contains or is supported by adequate assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on the construction of the facility will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a5). The Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 65 Stat. 1267), and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

"(b) The Secretary shall not approve any grant to—

"(1) a school of medicine to establish or operate a separate department devoted to the teaching of family medicine unless the Secretary is satisfied that—

"(A) such department is (or will be, when established) of equal standing with the other departments within such school which are devoted to the teaching of other medical specialty disciplines

"(B) such department will, in terms of the subjects offered and the type and quality of instruction provided, be designed to prepare students thereof to meet the standards established for specialists in the specialty of family practice by a recognized body approved by the Commissioner of Education; or

"(2) a hospital to establish or operate a special program for medical students, interns, or residents in the field of family medicine unless the Secretary is satisfied that such program will, in terms of the type of training provided, be designed to prepare participants therein to meet the standards established for specialists in the field of family medicine by a recognized body approved by the Commissioner of Education.

"(c) The Secretary shall not approve any grant under this part unless the applicant therefor provides assurances satisfactory to

the Secretary that funds made available through such grant will be so used as to supplement and, to the extent practical, increase the level of non-Federal funds which would, in the absence of such grant, be made available for the purpose for which such grant is requested.

"PLANNING GRANTS

"SEC. 766. (a) For the purpose of assisting medical schools and hospitals (referred to in section 761) to plan projects for the purpose of carrying out one or more of the purposes set forth in such section, the Secretary is authorized for any fiscal year (prior to the fiscal year which ends June 30, 1975) to make planning grants in such amounts and subject to such conditions as the Secretary may determine to be proper to carry out the purposes of this section.

"(b) From the amounts appropriated for any fiscal year (prior to the fiscal year ending June 30, 1975) pursuant to section 762 (a), the Secretary may utilize such amounts as he deems necessary (but not in excess of $5,000,000 for any fiscal year) to make the planning grants authorized by subsection (a).

"ADVISORY COUNCIL ON FAMILY MEDICINE

"SEC. 767. (a) The Secretary shall appoint an Advisory Council on Family Medicine (hereinafter in this section referred to as the 'Council'). The Council shall consist of 12 members, 4 of whom shall be physicians engaged in the practice of family medicine, 4 of whom shall be physicians engaged in the teaching of family medicine, and 4 of whom shall be representatives of the general public. Members of the Council shal be individuals who are not otherwise in the regular full-time employ of the United States.

"(b) Each member of the Council shall hold office for a term of 4 years, except that any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that the terms of office of the members first taking office shall expire, as designated by the Secretary at the time of appointment, 3 at the end of the first year, 3 at the end of the second year, 3 at the end of the third year, and 3 at the end of the fourth year, after the date of appointment. A member shall not be eligible to serve continuously for more than two terms.

"(c) Members of the Council shall be appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Members of the Council, while attending meetings or conferences thereof or otherwise serving on business of the Council, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

"(d) The Council shall advise and assist the Secretary in the preparation of regulations for, and as to policy matters arising with respect to, the administration of this title. The Council shall consider all applications for grants under this part and shall make recommendations to the Secretary with respect to approval of applications for grants under this part.

"DEFINITIONS

"SEC. 768. For purposes of this part—

"(1) the term 'nonprofit' as applied to any hospital or school of medicine, means a school of medicine or hospital which is owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

"(2) the term 'family medicine' means those certain principles and techniques and that certain body of medical, scientific, administrative and other knowledge and training, which especially equip and prepare a physician to engage in the practice of family medicine;

"(3) the term 'practice of a family medicine' and the term 'practice', when used in connection with the term family medicine, mean the practice of medicine by a physician (licensed to practice medicine and surgery by the State in which he practices his profession) who specializes in providing to families (and members thereof) comprehensive, continuing, professional care and treatment of the type necessary or appropriate for their general health maintenance; and

"(4) the term 'construction' includes construction of new buildings, acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, including architects' fees, but excluding the cost of acquisition of land or off-site improvements."

S. 3421—INTRODUCTION OF A BILL TO EXTEND AND IMPROVE THE FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM

Mr. RIBICOFF. Mr. President, I introduce for appropriate reference a bill to extend and improve the Federal-State unemployment compensation program.

This bill is introduced at a time when daily reports call our attention to increased job layoffs, reduced workweeks, and planned reductions in production.

Unemployment compensation is the Nation's first line of defense against poverty and depression. By assisting the temporarily jobless to maintain a minimum purchasing power, unemployment insurance helps to prevent temporary economic weaknesses from turning into a full-fledged depression.

Today, at a time when heavy pressures are being exerted on our economy to stop inflation, this defense is becoming as obsolete as the Maginot line. This bill would make a significant contribution toward revitalizing the program.

Since 1935 the unemployment compensation program has provided income benefits to millions of men and women during temporary periods of joblessness. The program has been a significant contributor to the economic security of workers, their families, industry, and the Nation.

But despite the great economic changes which have taken place since the program was established, the legislation has remained substantially unchanged in 35 years.

As a result, the level of unemployment compensation has fallen sadly behind the times. In 1938 the effective ratio of average unemployment benefits was 43 percent of the average weekly wage. In 1969 it was 34 percent of the average wage.

In seven States average benefits are less than three-tenths the average wage.

Moreover, the maximum benefit in almost every State is a lower percent of average wages than it was 25 or 30 years ago.

In over 35 jurisdictions the maximum weekly benefit would serve to put a family of four below the official poverty line.

Because of these weaknesses, the unemployment insurance program has failed to function as an economic stabilizer. Both in 1958 and again in 1961 the Federal Government had to rush temporary relief to strengthen it in times of recession.

Democrats and Republicans alike have long recognized the urgent need for program improvements. Every recent administration has sought an improved benefit structure.

In 1954 President Eisenhower's Economic Report stated:

> Originally, upon the recommendation of the President's Committee on Economic Security in 1935, the States set benefits generally at 50 percent of weekly wages. However, they also fixed dollar maximums which have significantly curtailed benefits. The effective ratio of average weekly unemployment benefits to average weekly wages of covered workers was 43 percent in 1938. Since then, with dollar maximums failing to keep pace with rising wage levels, the effective ratio has fallen to 33 percent. It is suggested that the states raise these dollar maximums so that the payments to the great majority of beneficiaries may equal at least half their regular earnings.

In 1962, President Kennedy recommended "incentives for the States to provide increased benefits so that the great majority of covered workers will be eligible for weekly benefits equal to at least half of their average weekly wage."

President Nixon in his July 1969 unemployment insurance message to Congress renewed this plea for adequate unemployment insurance benefits. His message referred to the problem as follows:

> If the program is to fulfill its role, it is essential that the average maximum be raised. A maximum of two-thirds of the average wage in the State would result in benefits of 50% in wages to at least 80% of insured workers.

These Presidential messages have reiterated the national goal of providing the great majority of workers with unemployment benefits which would equal at least half of their regular wage.

We have exended much rhetoric but little real effort to reach this goal.

In 1965 the highest benefits available in 34 States were less than half the average wage. Today, 5 years later, there still remain 30 States which do not provide a maximum benefit equal to half the average wage.

Now the present administration has recommended once again that the States be permitted to deal with this deplorable state of affairs. This, despite the fact that even the present Secretary of Labor has termed the progress of State action as disappointing.

It is time for Congress to act.

The bill I am introducing today will strengthen the benefit structure of the program. It would establish a minimum Federal standard that would assure the majority of workers a benefit equal to at least one-half their average weekly wage. The maximum weekly benefit required under a State program would be at least 50 percent of the statewide average weekly wage.

This proposed standard is not coercive. But there is an incentive provided for the States to meet this goal. Failure would result in a 5-percent tax credit reduction for each year of failure. The present 90-percent Federal tax credit applied to the 3-percent Federal tax would be reduced by 5 percent each year the State failed to meet the standard. The total reduction in tax credits would be limited to three-fifths of the 3-percent Federal tax, or 1.20 percent. The possibility of reduced tax credits for employers will encourage State legislators to improve and maintain the benefit structure of their program.

A large group of States already meet the standard proposed in this bill. Many additional States could meet the standard with modest improvements in their program.

This minimum Federal benefit standard is intended to be a base from which all the States can start to move toward the recommended benefit goal. The proposed bill will improve the existing benefit structure of the program and provide additional time for the States to enact additional benefit improvements without placing an unexpected burden upon their existing State program.

Mr. President, I ask unanimous consent that the following table showing the maximum weekly benefit as a percent of the average weekly wage by selected years in each jurisdiction be included in the RECORD at this point. I also ask unanimous consent that the bill be printed in full following the table.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

MAXIMUM WEEKLY BENEFIT AS PERCENT OF AVERAGE WEEKLY WAGE IN COVERED EMPLOYMENT, BY STATE, SELECTED YEARS—1939-69

State	1939	July 1965	Dec. 1 1969
Alabama	85	43	44
Alaska	45	27-42	31-44
Arizona	61	41	41
Arkansas	94	50	50
California	59	53	46
Colorado	61	50	60
Connecticut	55	44-66	60-78
Delaware	56	43	40
District of Columbia	58	50	50
Florida	81	36	36
Georgia	85	40	43
Hawaii	81	66.7	66.7
Idaho	83	52.5	52.5
Illinois	55	36-60	33
Indiana	57	36-39	33-40
Iowa	65	50	50
Kansas	66	50	50
Kentucky	71	43	46.7
Louisiana	88	42	42
Maine	74	50	52.5
Maryland	63	49	51
Massachusetts	37	49	52
Michigan	53	34-56	31-50
Minnesota	62	46	47
Mississippi	96	39	41
Missouri	60	43	42
Montana	59	37	39
Nebraska	65	43	41
Nevada	56	35-51	36-51
New Hampshire	72	55	55
New Jersey	55	43	50
New Mexico	70	38	50
New York	39	47	46
North Carolina	87	52	42
North Dakota	69	50	50
Ohio	54	36-46	34-48
Oklahoma	61	33	33
Oregon	52	42	45
Pennsylvania	60	44	49
Puerto Rico		38	50
Rhode Island	69	50-64	50-68
South Carolina	98	50	50
South Dakota	68	42	42
Tennessee	77	43	44
Texas	65	42	38
Utah	67	50	50
Vermont	67	50	50
Virginia	73	40	45
Washington	56	37	31
West Virginia	60	34	40
Wisconsin	55	52.5	52.5
Wyoming	77	50	50

Note: When 2 figures are shown the higher includes maximum allowance for dependents.

Source: U.S. Department of Labor, Manpower Administration, Unemployment Insurance Service: July 1965 data, "Unemployment Insurance Review," September 1967, December 1969 data, "Monthly Labor Review," January 1970.

Footnotes at end of table.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 3421) to amend the Federal Unemployment Tax Act so as to impose certain minimum benefit standards under the Federal-State unemployment compensation program, introduced by Mr. RIBICOFF; was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 3421

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Internal Revenue Code of 1954 is amended (1) by redesignating section 3309 of such Code as section 3310 and (2) by inserting after section 3308 of such Code a new section 3309 as follows:

"Sec. 3309. Benefit requirements.

"(a) CERTIFICATION.—On October 31, 1971, and on October 31 of each calendar year thereafter, the Secretary of Labor shall certify to the Secretary each State whose law he finds is in accord with the requirements of subsection (c) and has been in accord with such requirements for substantially all of the 12-month period ending on such October 31 and that there has been substantial compliance with such State law requirements during such period. The Secretary of Labor shall not withhold his certification to the Secretary unless, after reasonable notice and opportunity for hearing to the State agency, he finds that the State law is not in accord with the requirements of subsection (c) or has been in accord with such requirements for substantially all of the twelve-month period ending on such October 31 or that there has been a failure to comply substantially with such State law requirements during such period. For any State which is not certified under this subsection on any October 31, the Secretary of Labor shall within ten days thereafter notify the Secretary of the reduction in the credit allowable to taxpayers subject to the unemployment compensation law of such State pursuant to section 3302(c)(4).

"(b) Notice to Governor of Noncertification.—If at any time the Secretary of Labor has reason to believe that a State may not be certified under subsection (a) he shall promptly notify the Governor of such State.

"(c) Requirements.—

"(1) GENERAL RULE.—The State law shall provide that the weekly benefit amount of any eligible individual for a week of total unemployment shall, subject to paragraph (2), be an amount equal to at least one-half of such individual's average weekly wage as determined by the State agency.

"(2) DEEMED COMPLIANCE.—The State law of any State shall be deemed to meet the requirement set forth in paragraph (1) for any 12-month period ending on October 31, if under such law as in effect during such period—

"(A) not less than 70 percent of the individuals who earned the qualifying wage under such law in the calendar year ending on the preceding December 31 could have received weekly compensation, including dependents' allowances (if any), equal, for a week of total unemployment, to not less than 50 percent of their own average weekly wage; or

"(B) not less than 80 percent of the individuals who filed claims under such law during the 12-month period ending on the preceding June 30, and who met the qualifying wage or employment requirement under such law, were entitled to weekly compensation, including dependents' allowances (if any), equal, for a week of total unemployment, to not less than 50 percent of their own average weekly wage, or

"(C) there was contained a benefit formula or formulas which provided an individual weekly benefit amount equal, for a week of total unemployment, to 50 percent or more of the individual's average weekly wage, up to a maximum weekly benefit exclusive of dependents' allowances (if any) equal to not less than 50 percent of the average weekly wage paid in covered employment during a period ending not earlier than the December 31 which last preceded the commencement of such 12-month period.

"(e) Definition of average weekly wage.—For purposes of this subsection, the term 'average weekly wage' means—

"(A) when used in reference to the wage of an individual, an amount equal to whichever of the following is appropriate under State law: (i) one-thirteenth of such individual's high-quarter wages in his base period, or (ii) the amount obtained by dividing the total amount of wages (determined without regard to any limitation on amount of wages subject to contributions under the State law) paid to such individual during his base period by the number of weeks in which he performed services in employment covered under such State law during such period, and

"(B) when used in reference to wages paid in a State, the amount computed by the State agency at least once each year on the basis of the aggregate amount of wages (determined without regard to any limitation on amount of wages subject to contributions under the State law) reported by employers as paid for services covered under such State law (i) during the first four of the last six completed calendar quarters prior to the effective date of the computation, divided by a figure representing fifty-two times the twelve-month average of the number of employees in the pay period which includes the twelfth day of each month during the same four calendar quarters, as reported by such employers, or (ii) during the calendar quarter specified in such State law of the first four of the last six completed calendar quarters prior to the effective date of the computation, divided by a figure representing thirteen times the three-month average of the number of employees in the pay period which includes the twelfth day of each month during the same calendar quarter, as reported by such employers."

(b) The table of sections for chapter 23 of such Code is amended—

(1) by striking out

"Sec. 3309. Short title."

and inserting in lieu thereof

"Sec. 3309. Benefit requirements."

and

(2) by adding at the end thereof the following:

"SEC. 3310. Short title.".

SEC. 2. Section 3302(c) of the Internal Revenue Code of 1954 is amended by adding at the end thereof a new paragraph (4) as follows:

"(4) If the unemployment compensation law of a State has not been certified for a 12-month period ending on October 31 pursuant to section 3309(a), then the total credits (after applying subsections (a) and (b) and paragraphs (1), (2), and (3) of this subsection) otherwise allowable under this section, for the taxable year in which such October 31 occurs, in the case of a taxpayer subject to the unemployment compensation law of such State shall be reduced—

"(A) in the case of a taxable year in which October 31, 1971, or October 31 of any succeeding year occurs, by 5 percent of the tax imposed by section 3301 with respect to the wages paid by such taxpayer during such taxable year which are attributable to such State; plus

"(B) in the case of a taxable year in which October 31, 1972, or October 31 of any succeeding year occurs, by a percent of the tax imposed by section 3301 with respect to the wages paid by such taxpayer during such taxable year which are attributable to such State equal to the percent obtained by multiplying 5 percent by the number of preceding taxable years with respect to which a reduction in credit had been imposed by reason of the application of clause (A), or, if less, 40 percent."

ADDITIONAL COSPONSORS OF BILLS

S. 3255

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Oregon (Mr. HATFIELD), I ask unanimous consent that, at the next printing, the names of the Senator from Texas (Mr. YARBOROUGH) and the Senator from Rhode Island (Mr. PELL) be added as cosponsors of S. 3255, to require airlines to segregate smokers from nonsmokers.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

S. 3335

Mr. EASTLAND. Mr. President, I ask unanimous consent that at the next printing, the name of the Senator from Georgia (Mr. TALMADGE) and the Senator from Alabama (Mr. SPARKMAN) be added as cosponsors of S. 3335, to amend the Internal Revenue Code of 1954 with respect to the tax-exempt status and the deductibility of contributions to certain private schools.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1969—AMENDMENTS

AMENDMENT NO. 486

Mr. ERVIN (for himself, Mr. ALLEN, Mr. EASTLAND, Mr. GURNEY, Mr. HOLLAND, Mr. JORDAN of North Carolina, Mr. RUSSELL, Mr. SPARKMAN, Mr. TALMADGE, and Mr. THURMOND) submitted an amendment, intended to be proposed by them, jointly, to the bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes, which was ordered to lie on the table and to be printed.

NOTICE OF HEARINGS ON PROPOSED AMENDMENTS TO LOWER THE VOTING AGE

Mr. COOK. Mr. President, at the request of the chairman of the Subcommittee on Constitutional Amendments (Mr. BAYH), I am pleased to announce that the subcommittee will be holding 2 days of hearings on proposed amendments to lower the voting age. The hearings will be held February 16 beginning at 10:00 a.m. in room 318, Old Senate Office Building, and on February 17 beginning at 9:30 a.m. in 1202 New Senate Office Building. Inquiries should be directed to the staff of the subcommittee, extension 3018.

NOTICE OF HEARINGS ON "HEART DISEASE, CANCER, STROKE, AND KIDNEY DISEASE AMENDMENTS OF 1970"

Mr. YARBOROUGH. Mr. President, for the information of my colleagues and the press, I wish to announce at this time that on February 17 and 18 the Subcommittee on Health of the Committee on Labor and Public Welfare, of which I am chairman, will hold hearings on S. 3355, the "Heart Disease, Cancer, Stroke, and Kidney Disease Amendments of 1970," and related bills.

In 1965 Congress passed a law, Public Law 89–239, establishing regional medical programs, which were designed to help physicians and other providers of care to bring the latest advances in diagnosis, treatment and rehabilitation to patients suffering from heart disease, cancer, stroke, and related diseases. This extended legislation adds kidney disease as a concern of the regional medical programs.

Heart disease, cancer, stroke, and kidney disease are by far the leading causes of death in the United States. Together, these diseases accounted for well over 1 million deaths in 1969, more than 70 percent of the deaths in the United States last year. The specific inclusion of kidney disease in my bill reflects the growing concern over this major chronic disease, which afflicts about 8 million Americans and kills about 60,000 Americans each year.

Because of the importance of heart disease, cancer, stroke, and kidney disease as causes of death and disability in this country, there is need for efforts to promote the application of new knowledge about these diseases and to rapidly diffuse the new knowledge and skills to help physicians treat patients more effectively. I believe that prompt action on my bill will help Americans reap the benefits from our struggle against disease.

REDUCTION OF THE U.S. TROOP COMMITMENTS IN EUROPE

Mr. MANSFIELD. Mr. President, The Rochester Times Union of January 29, contains a column written, by the distinguished chief correspondent of the Washington Bureau of the Gannett News Service, Mr. Jack Bell. Mr. Bell writes on the question of reductions in U.S. troop commitments in Europe. In particular, Mr. Bell discusses, with his customary cogency and clarity, differences of viewpoint as expressed by the Vice President and a spokesman for the Department of State with respect to the application of the Nixon doctrine to Europe, a matter which is interwoven with this question. He also notes the rise in sentiment in the Senate for a reduction in the troop commitment in Europe which—I stress—insofar as I am concerned has nothing to do with ending the NATO Treaty commitment itself. Rather, a reduction of forces would be a step in converting an anachronism into a situation more attuned to today's needs and realities in Europe.

I stress that because unless the proposal to reduce the commitment is promptly recognized as such—as Mr. Bell in his column does recognize—and the administration and the Senate can cooperate in bringing about a sensible reduction, there will be the danger, in my judgment, of panic or irritated withdrawals of forces at a later date.

So, Mr. President, I hope that Mr. Bell's column will be ready carefully in the executive branch no less than in the Senate. To that end, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TROOP PULLBACK DUE IN EUROPE

(By Jack Bell)

President Nixon is clinging to a holdover policy of "flexible response" evolved by the late President John F. Kennedy that seems to nullify for Europe his Guam Doctrine of reducing American commitments around the world.

The adoption of this concept has put the President on a collision course with the Senate—if not so clearly with the House.

The issue is, drawing down the 310,000 U.S. troops, their 235,000 dependents and 14,000 civilian employees maintained in Europe.

Expenditures for these represent a major share of the $12 billion annual American contribtuion to NATO.

The "flexible response" theory calls for maintenance of large conventional forces which would permit the West to respond to attack without immediate resort to nuclear weapons. It is aimed at preventing piece meal aggression the Warsaw Pact countries might believe they could get away with if the West's only defense were nuclear war.

But this theory of deterrence seems a great deal less applicable today than it was in 1962 when the Soviets were making threatening gestures at Berlin.

The glaring imbalance in it is that the major Western European nations, their affluence restored by $28 billion in American aid, continue to default arrogantly on their responsibility to defend themselves.

Nixon's Guam Doctrine pointed clearly toward phasing out the American role as policeman of the world. But when Vice President Spiro T. Angew predicted this disengagement would apply to Europe as well as to Asia, he was bluntly contradicted by Under Secretary of State Elliot L. Richardson.

Speaking for the Administration, Richardson pictured dire consequences which would follow the withdrawal of U.S. troops. He said such action would encourage the already delinquent Europeans to reduce further their wholly inadequate forces.

He said it would raise doubt that the U.S. intends to meet its commitments and would shake the structure of world order.

He contended only the reluctant Germans could fill the gap, compounding the sensitive fears of Russia and some members of the Western Alliance of such a buildup of military strength.

If these are cogent reasons for maintaining a substantial force in Europe, why do the Western Europeans give only lip service to them? Must we forever post our fighting men there as a hostage for U.S. fulfillment of its commitments?

Plainly, the Western Europeans do not believe that the threat of attack is anywhere near as great as it seemed to be in the 1950s.

Despite the increase in the number of Soviet divisions in Central Europe, the fears raised by Moscow's intervention in the internal affairs of Czechoslovakia have subsided.

Even Richardson concedes that American troops cannot be maintained at present strength in Europe "forever and ever."

But one wonders if and when the day will arrive when Nixon will be willing to apply to Europe the same kind of troop withdrawals he has instigated at infinitely graver risks in Vietnam.

Can he continue to say to South Vietnam "get ready to fight your own war" while reassuring Europe that we will always be there?

This issue cannot long remain on the shelf. Democratic Leader Mike Mansfield and a majority of his Senate colleagues are asking for a beginning in scaling down the European commitment. While their resolution calls for a "substantial reduction" in U.S. troops, that matter is certainly negotiable.

If nothing else, the financial stringency of the budget dictates a reduction in overall military manpower equal to the 300,000 cut in force strength in the current fiscal year.

What could look more inviting to a Congress bent on cutting military spending than the $12 billion outlay for a NATO organization Western Europe treats as a stepchild?

RESTRICTIONS AGAINST FOREIGN IMPORTS

Mr. COTTON. Mr. President, last December when the Senate was taking up the tax reform bill, I offered an amendment that would have authorized the President to impose restrictions against foreign imports if he found such articles were putting American workers out of jobs and that the country involved had restrictions on our exports.

I never deluded myself that my amendment, if it were adopted, would stay in conference. Of course it did not, but I was after some clear-cut recognition of the problem we are facing. We obtained that recognition by a better than 2 to 1 vote—the first time either body of Congress by a formal vote has indicated that its patience is running out.

Mr. President, I hold Secretary of Commerce Stans in the highest regard. I have never been one who made it a habit to take pot shots at my own administration. But when we have a situation where we submissively and meekly allow an American industry to crumble bit by bit, I do not believe that that kind of trade policy should escape criticism. Remember, my amendment was a free-trade amendment. It simply made free trade a two-way street, providing that this country would match trade barriers raised by other countries until they took them off.

Mr. Stans has said all along that he would negotiate on textiles first; the others would have to wait. Last year alone, foreign shoe imports chewed up 30 percent of the domestic market, amounting to 195 million pairs. That cost us 7,900 shoe jobs in New England. The handwriting is on the wall.

Apparently the smoke signals we sent up from Capitol Hill on December 10, when the Senate voted 2 to 1 in favor of my import amendment, have been read downtown. At least that is my impression after reading a page 1 story in the February 5 issue of the Journal of Commerce. The headline states:

Stans Treatening Textile Import Curb.

The article goes on to say:

Congress will act to limit textile imports if voluntary agreements cannot be reached within 3 months, Commerce Secretary Maurice Stans warned a gathering of foreign correspondents this morning.

These are the Secretary's own words:

It is highly likely Congress will act in the matter of limiting textile imports, and possibly other products, if there aren't agreements in a relatively short time—and by short time I mean three months.

Now, did our vote on the import amendment last December have the desired effect? I believe so. Finally the Secretary is talking in plain terms and about "other products." No longer does he focus on textiles alone. In my section of the country, our textile industry has virtually disappeared. Cotton textiles are gone. Wool textiles are nearly gone. Only a portion of manmade fibers can be saved. Doing something about textiles for New England is much like having an autopsy on a corpse.

Of course, I favor voluntary agreements on textiles. At the same time, I want some constructive action from the administration on shoes, electronics, and other products that day after day, week after week, and month after month are falling by the wayside while we continue to be an open dumping ground for all kinds of cheap foreign goods.

I am not jumping for joy at the statement by Secretary Stans. Perhaps I, like so many other Senators, have been fighting this battle for so long that I have become cynical and feel that we are hearing only more honeyed words. I am faintly encouraged, however. The Secretary is an intelligent man. He must know how we feel. It is a matter of record. We in Congress are tired of a trade policy that jeopardizes American jobs. His statement to the foreign newsmen shows that he now has a glimmer that tells him Congress will move in and assert itself unless voluntary agreements come promptly. Frankly, I have no faith in a 3-month miracle unless we start pushing legislation through Congress. The practical difficulty is that, under the rules, such legislation must start in the House of Representatives; and so far, the House has done nothing except to knock my amendment out of the tax bill. The Senate Committee on Finance is powerless to initiate action.

Mr. President, I intend to offer a resolution directing the Committee on Commerce, of which I am a member, to conduct an immediate study of the barriers against American goods shipped to foreign countries, and to call on Mr. Stans and the Department of Commerce, as well as the State Department, to testify before our committee.

THE TONKIN GULF JOINT RESOLUTION SHOULD BE REPEALED

Mr. YOUNG of Ohio. Mr. President, in March 1964, I first spoke out in the Senate denouncing our involvement in a civil war in Vietnam which had become an American ground and air war. Following that, I received an avalanche of denunciatory letters and telegrams from Ohio citizens. Many even accused me of being a Communist sympathizer or a traitor. Now, nearly 6 years later, I know from personal talks with Ohio citizens and from the increasing volume of highly commendatory mail and telegrams that the great silent majority of Ohio citizens support the position I took at that time and maintain today.

They want our combat troops withdrawn from Vietnam without delay. The Vietnam war is a national disgrace. When General Eisenhower left the White House in January 1961, we had 685 military advisers in Vietnam—no combat troops. On the day President Kennedy was assassinated we had 16,120 military advisers in Vietnam—no combat troops.

More than 47,000 young Americans have been killed in combat; 9,000 additional men of our Armed Forces have been killed in what Pentagon terms accidents and incidents. I assert most of these should be termed combat deaths, and would have been in World War II when there was "no credibility gap." More than 265,000 have been wounded, many maimed for life, and 1,483 missing, either killed or prisoners of war. Also, more than 20,000 of our wounded have been saved by almost immediate evacuation by helicopter and superior medical attention who in previous wars would have died of their wounds. More than that total number will be maimed invalids for the remainder of their lives. What is this miserable war costing us in addition? Thirty billion dollars per year, spiraling inflation, soaring interest rates, higher taxes, skyrocketing disability payments, and increasing veterans hospitalization costs, more poverty, crime, and racism. Also urban development, education, air and water pollution have necessarily been tragically neglected. Our national prestige throughout Asia is the lowest in our history. We have been buying the support of the Saigon regime and our Asian allies, the Philippine Republic and South Korea.

Nothing in the history of the Republic for 100 years has gnawed so horribly on us as Vietnam. Never in our entire history has the reckless expenditure of so much in blood and treasure yielded so little. The statistics of lives and more than a hundred billion dollars wasted are only a part of the tragedy. Americans are more deeply divided over Vietnam than at any time since the Civil War. This undeclared, unpopular war has helped to turn a generation of young Americans against their Government. They are disillusioned and in revolt. The war has

swept away precious resources needed to feed and house the poor, educate the young, and clean up our polluted environment. We have spent tremendously and recklessly in places like Mylai and Ben Tre, the city we destroyed in order to save. We have so little left for our own in the Hough area of Cleveland, in Watts, in Harlem, and in all areas of our Nation where families live in miserable poverty and undernourished children go to bed hungry night after night. Vietnam is tearing apart the moral, social, and economic fabric of our Nation.

I am hopeful that Senate Concurrent Resolution 42, which I submitted last October and which proposes to repeal the Gulf of Tonkin joint resolution, will be favorably reported by the Committee on Foreign Relations. In humility and a feeling of personal blame, I admit that I was deceived and deluded by President Johnson, backed by the generals of our Joint Chiefs of Staff, misrepresenting and distorting facts, when on August 7, 1964, I voted for passage of this infamous joint resolution subsequently used in a dictatorial manner by the President as his justification for waging an undeclared war.

Mr. President, on March 1, 1966, almost 4 years ago, Senators FULBRIGHT, MCCARTHY, Morse, Gruening, and I were five Senators who voted to repeal the Tonkin Gulf joint resolution.

As time marches on, the Tonkin Gulf incident seems preposterous and incredible. President Johnson and other executive department officials claimed that our destroyers on routine patrol in the Gulf of Tonkin were attacked by a few Vietnamese gunships. The destroyers *Maddox* and *Turner Joy* were in fact on an intelligence collecting mission. In looking at this event through the lighted prism of time, the falsity and absurdity stands out. The *Maddox* alone could have blasted and destroyed in short order all gunships in the North Vietnam Navy. False, or at the very least unproved, allegations were made that our destroyers were attacked. This murky, misrepresented incident was used by President Johnson to obtain congressional support of the Tonkin Gulf joint resolution.

Since its passage, more than 2,500,000 American combat soldiers, marines, airmen, and sailors have participated in the undeclared war and in bombing both North and South Vietnam, defoliating and poisoning approximately 5 million acres of land, an area about the size of Massachusetts, being 12 percent of the entire area of South Vietnam, killing and maiming many thousands of civilians—women, children, and babies—in a little country in southeast Asia of no strategic or economic importance to the defense of the United States. We take pride that ours is a great and powerful Nation. Can we really have any feeling of pride knowing that in South Vietnam during the past 7 years we have sprayed or dumped defoliants on the countryside, on villages, and on the homes of peasant families in staggering amounts? Pregnant Vietnamese women have been ingesting in drinking water as much as 600 times the rate of concentration of pesticide poisons officially considered safe for Americans. It may seem unimportant that one-twelfth of the land of South Vietnam has been poisoned for perhaps the coming 50 years. What is terrifying is that horribly deformed infants are being born due to this inhumanity.

It is a false claim that we are fighting a land war in southeast Asia because of commitments made by Presidents Eisenhower and Kennedy. In fact, all President Eisenhower stated in 1954 in a letter to the President of South Vietnam was that he was instructing the American Ambassador to examine how an intelligent program of American aid could assist Vietnam in its hour of trial. The purpose of his offer, he stated, was to assist the South Vietnamese Government in developing and maintaining a strong viable state capable of resisting attempted subversion or aggression through military means. Can anyone claim General Thieu and Air Marshal Ky have a strong viable government?

The late John F. Kennedy said:

> Transforming Vietnam into a Western redoubt is ridiculous. We can help them, we can give them equipment, we can send our men out there as advisers, but they have to win it—the people of Vietnam.

Unfortunately, we cannot change the past. We can, however, learn from the past and not be doomed to repeat our previous errors. Indeed, it is because of the potential future significance of the Tonkin resolution, and its serious implications for the future conduct of American foreign policy, that there is a pressing need to repeal that joint resolution during this session of Congress. Its continued existence constitutes a virtual abdication by the Congress of its constitutional power to declare war. It effectively removes any restraint on the executive department from involving young Americans in future wars without the consent of Congress.

It should be made impossible hereafter for any President to yield to the military-industrial complex and to squander the priceless lives of American youngsters in any foreign adventures without the explicit consent of Congress.

We must put an end to warmaking by the President and his associates in the White House, including members of the National Security Council. Congress should reassert its rightful role in the conduct of foreign policy. We should begin by repealing this ill-begotten resolution.

President Nixon after more than a year in office is continuing to wage a major war in Vietnam. His actions are a great disappointment to those of us who believe an end must be made without delay to indiscriminate warmaking as a Presidential prerogative. President Nixon should withdraw altogether from combat all of our ground forces before next August 1. He should keep his promise that there will be no more Vietnams. He owes it to the American people to bring the boys home, to withdraw all our combat troops in the same manner that we sent them over to Vietnam—by ships and by planes. It is unfortunate that President Nixon continues to defend the Tonkin Gulf joint resolution while at the same time asserting that he intends to end our involvement in Vietnam.

In that regard, I distinctly recall that in October 1964 in Akron, Ohio, I was seated within 10 feet of President Johnson. I heard him say, as did thousands of others, and as it was reported to millions of Americans who believed him:

> We are not about to send American boys 9 or 10,000 miles away from home to do what Asian boys should be doing for themselves.

Mr. President, I was in every area of South Vietnam in 1965 and again in 1968. General Westmoreland told me that the bulk of the Vietcong fighting us in South Vietnam were born and reared in the Mekong Delta. His chief deputy, Gen. Richard Stillwell, later in Thailand told me that 80 percent of the VC fighting us in the Mekong Delta south of Saigon were born and reared in that area. When I said to General Westmoreland, "Well, we are involved in a civil war in Vietnam," he looked startled but said, "Well, it could be termed an insurrection."

Mr. President, if it is claimed by President Nixon that it would be impossible to withdraw all of our ground troops from Vietnam by August, we should at the very least disengage immediately from all offensive action and withdraw all of our ground troops to coastal bases where they would have the protection of our air power and 7th Fleet.

That great silent majority of Americans must not be denied their determination that we withdraw all support from the militarist Saigon regime of Thieu and Ky. As Walter Lippmann bluntly put it:

> We are fighting to save face.

From 1961 to this hour, American military advisers have been training the so-called friendly forces of the Saigon regime. Will it take another 10 years before the Saigon regime's army is fit to fight? Or 20 years? We must not continue to maintain the Thieu-Ky militarist regime, which represents at most but a small percentage, perhaps 20 percent, of the people of South Vietnam.

The desire of those Saigon militarist leaders to remain in power is totally inconsistent with President Nixon's statement that "what is important is what the people of South Vietnam want." These incompatible policies hold out the prospect not of peace but of a prolonged military occupation which will continue indefinitely to drain American treasure and lives.

The fact is that while professing a desire for peace, the administration has failed to create political conditions in Vietnam under which peace is possible.

Reducing the troop level in Vietnam from 535,000 men to 475,000 or to 200,000 or 300,000 fighting men this year is not what Americans had in mind when they elected Richard Nixon. In October 1968 candidate Nixon said he had a secret plan to end the war in Vietnam. This is still his secret. Unless he brings most, or all, of our fighting men home this year and withdraws the remaining thousands to our coastal bases such as Da Nang, Cam Ranh Bay, and Saigon on a purely de-

fensive status, Americans will be fighting and dying in Vietnam 15 years from now. Is it the policy of this administration to seek an end to this immoral, unpopular, undeclared war or merely to reduce the casualties and the troop commitment to what it supposes to be politically tolerable levels?

Until the President begins to make a real effort to solve the central task of forming a coalition government in Saigon, he cannot begin to make good the pledge on which he was elected.

Mr. President, in the capitals of Asia and Europe, topmost officials now regard Americans, as they did the French, as aggressors seeking to crush the aspirations of patriots fighting for national liberation. Unless President Nixon drastically alters his current bush league program of withdrawing some ground troops from southeast Asia, Americans will be fighting and dying in Vietnam and Laos 15 years from now. Our great grandsons and daughters will suffer because of this unparalleled national insanity. They will support over the years in hundreds of veterans' hospitals the wrecked and maimed hulks of what were once our bravest and finest young men.

Mr. President, 500 years before the birth of our Savior, the Chinese sage Confucius wrote:

A man who makes a mistake and does not correct it makes another mistake.

A nation which has made a mistake and does not correct it likewise makes another mistake. The repeal of the Gulf of Tonkin joint resolution would be a first step toward rectifying a terrible mistake.

RACIAL VIOLENCE IN THE SCHOOLS

Mr. DOLE. Mr. President, on behalf of the Senator from Florida (Mr. GURNEY), I ask unanimous consent to have printed in the RECORD a statement by him relating to racial strife in the schools.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR GURNEY

I ask unanimous consent to have printed in the RECORD two very distressing articles which appeared in today's New York Times. The first by Mr. Joseph Lelyveld deals with racial strife in the New York school system, and the second, by Mr. Wayne King, deals with the apparent national trend toward racial violence in our schools.

I do not wish to be a cassandra on this subject, but I must say that we are here confronting a most inflammatory problem, one which has very far reaching significance to our country. The time has come, in my judgment, for Congress to face the problem squarely, gather all the facts, and attempt to formulate some sort of national legislative policy to deal with the problem and all of its ramifications.

[From the New York Times, Feb. 9, 1970]

RACIAL STRIFE UNDERMINES SCHOOLS IN CITY AND NATION—CITY HIGH SCHOOLS AFFECTED

(By Joseph Lelyveld)

Racial fears and resentment are steadily eroding relations between white teachers and administrators and black students in many, possibly most, high schools here.

In a few schools, this erosion has gone so far as to create conditions of paralyzing anarchy in which large police detachments have been deemed necessary to keep classrooms functioning and put down sporadic outbursts of violence by rebellious students.

More generally, the widening gulf between white adults and black youths in the schools convinces increasing numbers of blacks and whites that the fading promise of school integration can never be more than a hollow piety.

A two-month survey by The New York Times of a cross section of the city's 62 academic high schools—some predominantly black, others mostly white, some troubled and others ostensibly calm—indicated that racial misunderstanding appears in some schools not just as a fever that flares now and then but as a malignant growth.

In such schools adults and youths seize on narrow one-dimensional views of each other.

In the eyes of many teachers, students who express feelings of racial pride by donning the African shirts called dashikis and wearing talismans, or by sewing emblems of various black power movements to Army combat jackets, surrender the status of children for that of "hard-core militants."

"We are faced with a very, very specific political movement," charged James Baumann, a co-chairman of the United Federation of Teachers chapter at Franklin K. Lane High School, a neocolonial fortress on the Brooklyn-Queens border where a force of 100 policemen was stationed last October after an outbreak of racial violence. "A small, dedicated group of militants is trying to polarize the student body and establish a totally black school."

A respected Brooklyn principal, who didn't want to be quoted by name, talked not of small minorities but uncontrollable masses. "What can you do," he asked, "when you have 1,000 blacks in your school, all programed for special behavior and violence?"

In the eyes of many black students, teachers given to such interpretations lose their identity and vocation and merge into that monolith of rigid, hostile authority known collectively as "the Man."

"A FALLEN HOUSE"

"As soon as they get the cops behind them, they show how racist they are," said a Lane student regarded by teachers as a "militant" leader. "We're trying to get ourselves together but they don't like that. They want to get get us out. That's boss [great]! Black people shouldn't go to that school."

A black senior at George W. Wingate High School put his disaffection more broadly: "The school system? Like man, it's a fallen house."

Often under pressure the two sides conform precisely to each other's expectations with results that are mutually disastrous. Then teachers are openly taunted and abused, firebombs and Chemical Mace are discovered in stairwells, and racial clashes erupt between black and white youths who normally keep a safe, formal distance between them.

In 1969 incidents of this type were reported in more than 20 high schools here.

"The youngsters are militant—everyone's militant," said Murray Bromberg, principal of Andrew Jackson High School in Queens.

Much of the anger of teachers and students can be traced to the frustrations both suffer in classrooms.

"WE AIM HIGHER"

In the furor over whether it is the schools that are failing to teach blacks and other nonwhites or the students themselves who are failing to learn there is one undisputed fact—that the results are catastrophic.

The level of educational achievement accepted as a norm in many schools was indicated last month by a letter sent to the parents of all students at Lane. "We are not satisfied just to bring every senior up to the eighth-grade level of reading," it said. "We aim higher."

Many black students are registered in watered-down "modified" courses that lead nowhere. Even in schools that boast of being integrated, these classes are often all-black.

But the small minority of students labled "militants" are almost never drawn from the mass of undisciplined students, semiliterate dropouts, truants or drug users. Frequently they are among the most aware and ambitious black students in the school—the very students, teachers commonly say, who should concentrate on their studies and "make something of themselves."

IRONIC SITUATION

Some observers regard it as ironic, even tragic, that these students and their capacity for commitment should be seen as a threat. "The fact is that they are an articulate and committed group of youngsters looking for change and reform," said Murray Polner, assistant to Dr. Seymour P. Lachman of the Board of Education.

But that has been distinctly the minority view, especially since the three teacher strikes over the community control issue in Ocean Hill-Brownsville late in 1968.

"That was the precipice," said Paul Becker, a Wingate teacher who broke with the union after the second strike and now is active in the Teachers Action Committee, which favors community control. "After that it was downhill all the way. It was 'us' against 'them.'"

Many black students are still outraged by the memory of epithets and abuse from U.F.T. picket lines. "There were teachers shouting, 'Nigger!'" recalled Billy Pointer, a Wingate senior, in the course of a recent group discussion on human relations.

"No, Billy, that's not right," said Martin Goldberg, a social studies teacher. "I have to admit that some teachers used unprofessional language but I'm almost sure that none of them used the word 'nigger.' That must have been parents."

Later, the teacher commented: "I hate it when people who aren't racists say 'nigger.'"

That the clash of values has not been exclusively racial was demonstrated at Jackson where black students last year agitated successfully for the appointment of a black assistant principal.

This fall the new man, Robert Couche, was stunned to find himself denounced as a "house nigger" after having been regarded himself, he says, as an "extremist" at his previous school.

More recently, these same black students threatened demonstrations to block the transfer of young white teachers whom they considered sympathetic.

Negro school administrators like Mr. Couche find themselves in a lonely, uncomfortable position where their motives are often over-interpreted or misinterpreted by both their white colleagues and black students. Nevertheless there are many who believe that the advancement of more blacks to positions of real authority in the system offers one of the few possibilities of blunting the racial confrontation.

At present few high schools have faculties that are less than 90 per cent white; only three have Negro principals. White teachers often complain that Negroes are being favored for promotion, while many blacks say that the system advances only the "safest" Negroes.

"Now if you don't bite your tongue, you're a 'militant,' said Charles Scott, a former head of the U.F.T. chapter at Jackson who is a leader of a faculty Black Caucus there that sees itself as a counterpoise to the union.

STUDENT "WILLING TO DIE"

Many white teachers are convinced that there is a carefully plotted conspiracy for a black "takeover" of the high schools—those of North Brooklyn and South Queens, in particular—by the same forces that were active in Ocean Hill-Brownsville. The evidence they most often cite is the words and

rhetoric of black student activists and adults who influence them.

A newsletter of the African-American Teachers Association calls for support of black students who "seek 'through any means necessary' to make these educational institutions relevant to their needs."

At Lane, a student sent tremors through the faculty by proclaiming his willingness "to die for the cause."

What do such declarations mean? John Marson, the self-possessed chairman of the African-American Students Association, replied that violence was the only power students had to "back up what they say," comparing it to the power of the U.F.T. to strike.

But he scoffed at the ideas many teachers hold about a conspiracy. No one can tell the students in the various schools what to do, he said.

That wasn't the way it seemed last semester to Max Bromer, the beleaguered Wingate principal. "It's all planned, it's all planned," he insisted when he was visited one day in his office, which looked like a stationhouse annex with four or five police officers lounging at a conference table and a police radio crackling in the background.

Pressure was building up in the school, he said, and he had reliable intelligence warning him of a likely cafeteria riot in the sixth period.

A white teacher came into the office and reported that the cafeteria was quieter than it had been in weeks. "They're massing," the principal surmised.

When the sixth period passed without incident, his anxiety shifted to the eighth. Finally the school emptied. Was it all a false alarm? "No," he said, "it was psychological warfare."

Mr. Bromer's responses can't simply be written off as jitters, for he had seen his school brought to the edge of a breakdown by racial hysteria and violence, despite what he thought had been a successful effort the previous semester to negotiate an "understanding" with the "militants."

As regularly happens, he has also seen many of his most experienced white teachers flee the school as the proportion of nonwhite students shot past the 50 per cent mark.

Wingate's troubles last term boiled out of a controversy over where to draw the line on expression by black students—the starting point of most racial explosions in the high schools. That line had been clearly transgressed, most teachers felt, in an assembly program staged by the school's Afro-American club.

Two passages were seen as particularly offensive—a recitation of an old Calypso ballad popular among Black Muslims ("A White Man's Heaven is a Black Man's Hell") and a line from a skit ("Brothers and sisters, we can't live if we continue to support the pigs by buying their dope and kissing their ——— and letting them label us.")

BLACKS AROUSED

White students weren't shocked by these lines but by the angry pitch to which black students in the audience seemed to have been aroused. "I was actually embarrassed to be white," one girl said, "because I thought they hated me for something I didn't do."

Teachers saw the program as a deliberate provocation. "The nerve! The nerve! The nerve!" one fumed.

A week later racial clashes broke out in which many more white students than blacks were injured. In fact, many teachers had assumed that a racial confrontation had been in progress ever since the assembly. Black students identified as "militants" complained that they immediately became objects of suspicion.

Many Wingate teachers assumed the students were being manipulated by "outside influences." They singled out Leslie Campbell and Sonny Carson, two fiery figures in the Ocean Hill-Brownsville dispute.

"I WAS WHITELISTED"

Mr. Campbell, a 29-year-old Lane alumnus who is soft-spoken in conversation and anything but that in confrontation, lost his teaching post in the demonstration project last fall—"I was whitelisted," he says—and has just started a "liberated" high school, in Brooklyn for black students with the backing of the African-American Students Association.

Called the Uhuru Sasa (Freedom Now) School, its curriculum will include courses in martial arts, Swahili and astrology.

Asked to describe his relation to the students, Mr. Campbell didactically sketched a diagram on a pad before him.

"This is the soil," he said, pointing with a pencil. "The minds of these kids is fertile soil but it just lays there in the schools. We supply the seed—an understanding of black nationalism and the political situation."

Mr. Campbell said he was out of "the demonstrations bag." Mr. Carson, a onetime leader of Brooklyn CORE, is still in it. He likes working with students, he said, because they haven't been compromised by "the system."

"These kids are already liberated," he exulted. "They're beautiful."

Black students here reflect a mood of self-awareness that can be found at almost any high school or college in the country with a significant black enrollment. Some are imbued with sloganistic fervor. Some want an outlet for anger. Others are tentatively working out a life style. Many are just happy to "belong."

A few imagine romantic futures for themselves as black revolutionaries. But most think in conventional terms of gaining skills that will make them useful to their people.

Most of them seem more indifferent than hostile to whites. "I can only care about the people I relate to and the people I relate to are all black," said a youth in Panther garb at Jackson.

Linda Jacobs, a black senior at Thomas Jefferson High School in Brooklyn, was similarly casual when asked about her reaction to the flight of whites from her school, which has gone from 80 per cent white to 80 per cent nonwhite in only five years. "It doesn't bother me, not one bit," she said.

FAKE ADDRESSES USED

Many whites from the Jefferson district have used fake addresses to send their children across the racial boundary formed by Linden Boulevard to Canarsie High School, which is about 75 per cent white—"a nice, solid ethnic balance," according to its principal, Isadore S. Rosenman.

But Canarsie has had its troubles. After rioting last year it found it expedient to eliminate the lunch period, as a way of preventing racial clashes in the lunch room.

Canarsie has also tried positive measures to overcome the disinclination of black students to become involved in the school's extracurricular life. For instance, it is now routine to have two bands at all dances, one black, the other white.

Teachers use words like "magnificent" and "beautiful" to describe relations at Canarsie. But most black students appeared to agree with Vernon Lewis, a senior, who said "Here you always have the feeling there is someone behind you, looking at you."

A SHARP CONTRAST

They contended that they would have more freedom of expression at a predominantly black school like Jefferson. The contrast between the bulletin boards of the Afro-American clubs at the two schools indicated the range. The Canarsie board told of scholarships available to blacks; the one at Jefferson carried the Black Panther newspaper.

Despite the publication of a code of students' rights by the Board of Education last October, there remain extraordinary variations in the degree of expression on controversial issues—racial issues, especially—permitted to students.

At Brooklyn Tech—a "special" school for bright students that is more than 80 per cent white—a dean last year ordered the removal of a picture of Eldridge Cleaver from the cafeteria on the ground that the author and Black Panther spokesman was a "fugitive from justice."

This year the principal, Isador Auerbach, summoned a police escort to remove a black "liberation flag" on the ground that state law forbade any banner but the American flag in the schools.

Ira Glaser, associate director of the New York Civil Liberties Union, termed this a typical case of "the lawlessness of principals." There is no such provision, he said.

ANOTHER VIEW

By contrast, Bernard Weiss, principal of Evander Childs High School in the Bronx, saw no need to react to the posting of a picture of Huey Newton, the Black Panther Minister of Defense, on a bulletin board in his school.

"We want kids to read, we want kids to discuss," he explained. "We don't teach revolution. But if that's what they want to discuss at least we can make sure they hear both sides."

Evander is about 50 per cent white, and most of its white students are from predominantly Italian, deeply conservative neighborhoods of the Upper Bronx—the perfect ethnic mix, it is sometimes said, for an explosion. But though the school has had some close calls and thorny issues, it has had no major eruptions of racial violence.

The school that has come closest to a breakdown—and has thereby raised the specter of ultimate disaster for the whole system—is Franklin K. Lane, which is set next to the mausoleums of the Cyprus Hills Cemetery.

On one recent afternoon, chemical Mace was released on a staircase, a fire was started in a refuse can in the lunchroom, and a tearful white girl, reporting that a gang of blacks was waiting to ambush her, demanded a police escort to her bus stop.

"Just a normal afternoon," said Benjamin Rosenwald, a dean.

Normality at Lane also included an ominous stand-off in the cafeteria between white policemen with little metal American flags stuck in their caps and black students standing guard beside a "liberation flag." Routinely, the students taunted "the pigs." The officers masked their reactions behind stiff smiles, but not one of them had his nightstick pocketed.

Many white students are afraid even to set foot in the cafeteria, known to them as "the pit." A handful have been kept out of school altogether by their parents for the last three months.

There are those who find a simple explanation for Lane's woes—the racial incongruity between the school and its locale.

Lane is about 70 per cent black and Puerto Rican but stands in a neighborhood that is entirely white and aroused on racial issues. Mainly Italian and German by ethnic background, the district sends Vito P. Batista, the Conservative, to Albany as its Assemblyman.

But, in fact, the residents were not the first group to become militant over the racial situation at Lane. Neither were the black students. Militancy began with the local chapter of the United Federation of Teachers, whose leaders complained five years ago that Lane was becoming "a dumping ground."

THE U.F.T. POSITION

The U.F.T. demanded that the Board of Education hold the blacks to under 50 per cent and, when that point was passed, they demanded that a racial balance be restored.

The teachers insist that their only interest has been "quality integrated education."

But the U.F.T. has never proposed that black students cut from Lane's register be sent to schools now predominately white.

George Altomare, a union vice president and a social studies teacher at Lane, was asked recently if he thought a black-white balance would also be a good idea for a predominately white school like Canarsie. "Ideally yes," he replied slowly, adding the proviso that more high schools would first have to be built to relieve overcrowding.

But Mr. Altomare believes there must be no delay in implementing a union proposal to make Lane a "prototype" of effective integrated education—to be accomplished by cutting its register by one-third and introducing special training in job skills for students not continuing to college.

It is only on paper that Lane is now overcrowded, for its average daily attendance is under 60 per cent.

Black students find a simple explanation for the faculty's insistence on reducing the student body. "Lane doesn't like us and we don't like Lane," one declared.

Since the strikes in 1968, Lane has gone from crisis to crisis. Last year a shop teacher, identified in the minds of some students as a supporter of George C. Wallace, was assaulted by young blacks who squirted his coat with lighter fluid and set it on fire.

ACTION OVERRULED

The assault, which was followed by the threat of a teacher walkout, led to the placing of a strong police detachment in the school and the dropping of 678 students—mostly blacks—from its register, an action later declared illegal by a Federal judge.

Even before the assault, the union chapter had placed a special assessment on its members for "a public relations and publicity campaign" aimed at winning the support of "business, civic, political and parent groups" for its position.

This effort helped arouse the surrounding white community which formed an organization called the Cypress Hills-Woodhaven Improvement Association specifically to protest disorders at Lane.

Michael Long, chairman of the group, said the union had hoped to use it as a "battering ram," then disowned it when it demonstrated for the removal of the school's principal, Morton Selub.

Now Mr. Long worries that he may not be able to control vigilante sentiment in the community if there are further disorders at Lane.

A FAMILIAR DISPUTE

The breakdown at Lane last October had a familiar genesis—a dispute over whether black students had the right to fly the "liberation flag" in place of the American flag in a classroom where they studied African culture.

After the flag had been removed from the room two days running, the students staged a sit-in to protect it, setting off the cycle of confrontation, suspensions and riots.

Black student activists at Lane don't deny that they have resorted to violence to press their demands, or "raise tensions to help a brother," or to "keep things out in the open."

They also acknowledge that they have not tried to discourage assaults on whites by younger black students outside their own group who want, as one activist put it, "to express their anger and let the white students know how it feels."

What they do deny is that their insistence on the "liberation flag" was an attempt to do anything but stake out a single classroom where they would be able to express themselves freely.

"Students want to relate to what's happening in their school," said Eugene Youell who prefers the adopted name of Malik Mbulu to his "slave name" and now has enrolled in Leslie Campbell's new school.

FOCUS OF PRESSURES

Some schools see a point in struggling to prove to themselves and their most aroused black students that there is a place for them in the schools and an incentive to study.

At Jackson, a school that appears to be on its way to becoming all-black, the principal has become the focus of a wide range of pressures—from white teachers, black teachers, middle-class Negro parents who want their sons and daughters protected from radical influences, and some black students who believe they have the right to conduct public readings of the thoughts of Mao Tse-tung or anyone else.

Recently the principal, Murray Bromberg, went before a history class devoted to "the evolution of today's African-American experience" and boasted, "This is the school of the future."

He said it was time for white school administrators and teachers to revise their assumption that standards must inevitably be lower in an all-black school.

His audience seemed to be itching to provide the principal with a list of assumptions about black youths that white adults could revise. But if they were "militants," they were also very obviously teen-agers who found no incongruity in wearing a big "I Support Jackson Basketball" pin next to a "Free Huey" button.

In fact, the African-American Club at Jackson has discovered it cannot hold meetings on the same day as a basketball game. Too many of its members are boosters.

National Trends Found in School Racial Unrest

(By Wayne King)

Racial polarilzation, disruptions and growing racial tensions that sometimes explode into violence are plaguing school administrators in virtually every part of the country where schools have substantial Negro enrollments.

The degree of racial unrest was detailed in reports from a number of cities and in studies conducted by Government and private sources. They pointed to the following trends:

While there are indications that the dramatic increase in "issue-oriented" disruptions in the major urban areas last year may have leveled primarily as a result of some apparent accommodation by school officials, racial tensions continue at a high level and appear to be increasing.

The same kinds of disruptions and clashes that have occurred in major cities, particularly in the North, are cropping up increasingly in medium-size cities.

The pattern of school-oriented racial protest and tension is becoming more apparent in the border states and the South as schools there become more integrated.

Racial tensions seem to be moving downward in grade levels, with problems becoming more apparent at lower secondary levels and below.

Many of those studying or involved directly in school racial problems are outspoken in the attitude that an evenhanded, "colorblind" approach will not work. Instead, administrators are increasingly being urged to become "color-conscious," to meet problems head-on and stringently to avoid apparently repressive measures, such as calling in the police.

No section of the country appears to be free of serious racial problems in schools.

39 RACIAL INCIDENTS

In a study of "confrontation and racial violence," the Urban Research Corporation in Chicago collected newspaper accounts of racial incidents that occurred at schools in 39 cities, towns or counties, from the beginning of the school year, last September into January. The private research corporation monitor national trends and prepares reports for various subscriber groups and organizations, including governments.

The incidents occurred in the following places:

Phoenix, Ariz.; Little Rock, Ark.; Los Angeles, Oakland, Riverside, San Bernardino and San Francisco, Calif.

Also Chicago, Blue Island and Harvey, Ill.; Muncie, Ind.; Kansas City, Kan.; New Iberis, La.; Springfield, Mass.; Pomfret and Prince Georges County, Md.

Also, Detroit and Pontiac, Mich.; St. Paul, Minn.; St. Louis, Mo.; Las Vegas, Nev.; Ashville, Chapel Hill, Lexington, and Sanford, N.C.

Also, Atlantic City and New Brunswick, N.J.; Albany, Belport and Middle Island, N.Y.; Cleveland, Ohio; Portland, Ore.

Also, Philadelphia and Pittsburgh, Pa.; Greenville and Ridgeville, S.C.; Crystal City, Tex.; Arlington, Va., and Charleston, W. Va.

John Naisbitt, president of the research corporation, noted that the study included only those incidents reported by the press and that some communities had had a series of incidents. Eleven reports, for instance, were gathered in Chicago alone.

"A UNIVERSAL TOOL"

Many of the incidents, Mr. Naisbitt continued, involved boycotts or closings of the schools. In Portland, Ore., for example, students at Roosevelt High School reportedly walked out over grievances, gained adult support and turned the protest into a city-wide issue. "The school boycott," Mr. Naisbitt said, "is almost a universal tool."

He also noted rising black-white tensions. "In some cities like Chicago," he said, "bigotry is gaining respectability in the face of increased black awareness and black pride."

"These two social forces are on a collision course," Mr. Naisbitt added, "and one of the places it's finding its focus is in our integrated schools."

But the prevailing opinion of human relations directors and others involved with school racial problems was that polarization was traceable more to the quest for "black identity" and unity, and the reaction to it, rather than to racial animosities.

RAPID INTEGRATION

In some cases the two seem to overlap as blacks and whites come under the stresses of rapid integration.

In Detroit's Cooley High School, where fist fights between blacks and whites broke out last fall, black and white students tend to sit on opposite sides of the school cafeteria.

Other Detroit schools have had relative peace, however, and the difficulties at Cooley may be explained with some statistics. In 1964, more than 90 per cent of the students at Cooley were white. Today, more than 50 per cent are black.

White resistance to school integration has also generated some problems.

Gage High School in southwestern Chicago, for example, was integrated in 1965 and now has 400 Negroes in its enrollment of 2,600. The school has had a number of racial student disorders.

About 120 arrests were reported in and near the school last fall, including 92 during the week of Oct. 28.

BLACK REACTION

Explaining the clashes, 16-year-old Negro student Columbua Tapps Jr., said: "Black students are going to react to insults. A month ago somebody hung a dummy on a rope from a tree in front of the school with a sign, 'Niggers Die.'"

A white student, Terry Conwell, also 16, said: "Only a few cause the trouble. Most of the whites (living in this area) want to keep this community white and resent integration of our school. But most of the kids have sense enough to know the fighting isn't worth it."

In Philadelphia, a spokesman for the school system's Office of Inter-group Education observed that "social separation (between races) has been total and complete."

The office operates in part on a principle it calls "conflict utilization." Once a conflict occurs, the office attempts to capitalize on the focus it creates to investigate and dramatize the underlying causes—community attitudes, conscious and unconscious discrimination, teacher attitudes, etc.—that often have little to do with the immediate cause of the incident.

"FANTASTIC" GAP

"The understanding gap," the Philadelphia spokesman said, "is fantastic."

A similar view was expressed by Dr. Alan F. Westin, a political science professor and director of the Center for Research and Education in American Liberties at Columbia University.

Dr. Westin, who was cochairman of a panel that investigated the causes of the Columbia disruptions in 1968, has been monitoring 1,800 daily newspapers to gather data on student disruptions in secondary schools across the country.

"The color-blind approach, although it works in some areas such as treating everyone alike in restaurants and in public transportations, won't work in education," he said. "If there is a sudden influx in blacks into a school and school authorities take the attitude that they're color-blind, it's guaranteed to create disruption because of the special needs of blacks."

Dr. Westin found that, of 675 secondary school protests reported in the newspapers he monitored last year, 46 per cent were caused by racial problems. The study included only demonstrations, sit-ins, fighting or other disruptions. And nearly one out of every five incidents—18.5 per cent whites and blacks.

Although a detailed analysis of the protests in the current school year has not been completed, Dr. Westin said there were preliminary indications that the "big city problems" of protest were occurring more frequently in medium-size cities.

"PATTERN OF PROTEST"

"There is also a distinct pattern of protest developing in the border states and the South," Dr. Westin said, with Negro student demands centering on the hiring of more black teachers and the revamping of school curriculums, and similar issues.

He also said there were indications that, in many big cities, the number of serious disruptions growing out of black demands for change had declined.

At the same time, Dr. Westin continued, there is no evidence that racial tensions have diminished. He noted, for instance, "a steady drumfire of fights in cafeterias and out of school, between blacks and whites."

Dr. Westin agreed with authorities who maintained that racial conflicts reflected the black students' striving for identity.

For example, he noted that a major issue last year was the lack of black cheerleaders. Other demands included the serving of "soul food" in school cafeterias and the placing of portraits of black heroes, such as Malcolm X, in school buildings.

Such demands were "symbolic of a need to imprint a sense of blackness on the schools," he said. "The black kids wanted to feel their heritage was as valid as the whites."

RICHARD GREEN—EAGLE SCOUT

Mr. MANSFIELD. Mr. President, in this age of the "generation gap" and mounting social and economic problems, too little attention is given to some of the very basic and wholesome elements of our American society. This was recently brought to mind when I read a news story in the Hungry Horse News regarding the presentation of an Eagle Scout badge to one of Columbia Falls, Mont., outstanding Boy Scouts.

The Boy Scouts of America has a very fine tradition, and it is encouraging to know of the accomplishments of this new Eagle Scout and honor student at the Columbia Falls High School. We are all proud of Eagle Scout Green and his colleagues in troop 41.

I was interested to note that this young man's grandfather is John Miles, of New Mexico, a former Governor of that State, a two-term U.S. Representative and a colleague and warm friend of mine in the House of Representatives.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PRESENTS EAGLE BADGE; HEARS GEORGE OSTROM

Presentation of an Eagle badge to Richard Green, 16, highlighted court of honor for Boy Scout Troop 41, Tuesday.

Richard, son of Mr. and Mrs. Richard Green, Bad Rock, was in cub scouts three years and has been a troop 41 member five years. His parents, sister, Sherry, 10, and brother, Russell, 5, attended the court of honor. Mrs. Green pinned the Eagle badge on her son while his father watched.

The new Eagle scout is a sophomore and honor student at Columbia Falls High School, where he participates in football, basketball and track. He's also an active 4-H worker.

Proud grandparents are Mr. and Mrs. A. C. Green, Spearman, Texas, and Mr. and Mrs. John E. Miles, Santa Fe, N.M. Mr. Miles, now 85, is a former governor of New Mexico, who served two terms as a U.S. congressman.

ENJOY OSTROM

"An exceptionally fine lecture and outstanding scenic pictures" described evening's program presented by G. George Ostrom, Kalispell. There was an attentive audience of boy scouts, parents and children as Ostrom discussed "Questionable Conservation Practices." Pictures shown included scenes from Glacier National Park, Flathead National Forest and Moose City on the Canadian line.

Scoutmaster Teddy Andrew, Perry Padgett, troop committee chairman, and Merlin D. Ballensky presented badges to scouts. Richard Green and Don Barta assisted with presentation of service and attendance awards. There are 25 boys registered in troop 41, which is sponsored by Columbia Falls Lions Club.

LIST AWARDS

Awards earned were:

Tenderfoot—Jack Canavan, Jim Pierce, Calvin Sherman

Second Class—Mory Grigg, Fred Phillips, Jim Pierce, Calvin Sherman.

First Class—Randy Hart, DeWayne Padgett.

Star Scout—Jeff Padgett, Leonard Wittlake, Fred Wittlake.

Life Scout—Dayton Johnson.

Fifty Miler and Historic Trails Patch—Don Barta, Bob Bechtel, Andy Fisher, Richard Green, Randy Hart, Dayton Johnson, Mike McNeily, Sam Padgett, Jeff Padgett, DeWayne Padgett, Cary Weyrauch. Scoutmaster Andrew, Charles Fisher and Perry Padgett, committeemen, also received the patch.

Boys and badges earned were as follows:

Bob Bechtel—cooking, hiking, camping.

Andy Fisher—personal fitness and firemanship.

Randy Hart—cooking, hiking, camping.

Dayton Johnson—forestry, nature, wildlife management.

Jeff Padgett—firemanship, fishing, personal fitness.

Brian Phillips—personal fitness, fishing.

Fred Wittlake—farm mechanics.

Leonard Wittlake—fishing, farm mechanics, music, firemanship, personal fitness.

OUR HOUSING FAILURE

Mr. PROXMIRE. Mr. President, in 1968 Congress stated a national goal of providing every American family with decent housing and set forth a program of building 6 million housing units for low- and moderate-income families over the next 10 years. Today those goals are floundering due to tight money, insufficient funding, and FHA bureaucratic delay.

For example, an article published in the Washington Post yesterday reported:

Delays of one and two years between initial application and the beginning of construction are common.

Given the shortage of funds and record high interest rates, we need to redouble our efforts to break the "snail's pace" level which has thus far characterized the FHA bureaucracy. Instead, it has been business as usual. While housing needs go unfulfilled, applications are reviewed, checked, processed, examined, and re-reviewed. There must be a better way.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

U.S. EFFORT TO HOUSE POOR HELD FAILURE

(By Leonard Downie Jr.)

For a decade, the federal government has experimented with subsidizing private business and "nonprofit groups" to build housing for the poor. Congress has provided during the 1960s what everyone believes is the most imaginative legislation possible.

But many congressmen, top Nixon administration housing officials, and an emerging cadre of professionals and volunteers trying to build the housing for the poor agree the job simply is not being done.

Far less housing than Congress planned for "low" and "moderate" income families has been built under the once promising new programs.

The little housing that has been built has not been available to most of those families statistics show need it most. It has gone mostly to the richest of families eligible under government regulations.

Optimistic plans for renovating many of the basically sturdy but rundown houses and apartment buildings of city slums for low-income families have failed to achieve significant results.

This is the case despite the fact the government has a supermarket of subsidies to offer builders of housing for the poor through the Housing Act of 1968, which President Johnson called a "Magna Carta to liberate our cities."

The reasons the experts give for the failures are varied.

Although Congress has passed bold legislation for housing the poor, it has failed to appropriate the money that the Department of Housing and Urban Development says it needs to carry the laws out.

The nationwide credit squeeze and rising mortgage interest rates also have hurt, because most of the government subsidies go to insuring and paying part of the interest

on mortgage loans made by private sources for construction or renovation of the housing.

The most costly item, however, the one that keeps rents in the subsidized projects so high that low-income families can't get into them, is land.

"Land control"—the ability to get the land needed for subsidized housing programs at a much lower cost, or with a further federal subsidy—is listed as a "must" need by every expert in housing for the poor, in and out of government.

There has been little overall direction from HUD for private investors and the churches, labor unions and civic associations that form nonprofit or limited profit groups and corporations to build low income housing.

They usually know little about construction, mortgage financing, or the red tape of HUD's Federal Housing Administration. An Urban America, Inc., book of instructions and official forms for such a group to use to process a housing application contains 280 pages and 70 forms.

Even experienced groups with housing experts on their staffs, like Washington's Housing Development Corporation, have run into interminable delays in the FHA process. Delays of one and two years between initial application and the beginning of construction are common.

Part of the delay comes from still another problem plaguing efforts to build housing for the poor: rising construction costs.

They are going up so fast, especially for renovation of existing slum buildings, that FHA, which compares requests to a data bank of costs for past projects, often refuses to approve construction cost estimates of even the most experienced nonprofit housing groups.

FHA has also had difficulty changing from an agency that primarily insured mortgages on safe middle class home investments to that may expect to take the leadership in the risky redevelopment of the slums.

HUD Secretary George Romney says he knows about all this and wants to do something about it.

He is reorganizing HUD to separate the insurance and housing production functions and to give priority to providing housing for the poor, with emphasis on finding new technology for the task.

A top aide to Romney says HUD is preparing "dramatic and possibly controversial" proposals for still more legislation and changes within HUD designed to refine and operationally improvement the pioneering housing laws of the 60s.

Experts like Channing Phillips of Washington's Housing Development Corporation, who work with HUD every day in trying to get the housing built, say they like what they have seen so far of the new direction there.

They fear, however, that the nation lacks the strong commitment to provide decent housing that is necessary to get enough money spent and enough of the old rigid rules made more flexible.

The nation had already made a formal commitment in the 1930s, reinforced by the Housing Act of 1949, to provide "a decent home . . . for every American."

For millions of upward bound white Americans, the promise came true as FHA and its predecessor and sister agencies provided the insurance and other backing for their migration to comfortable homes in the suburbs.

After World War II, to provide a way station for poorer people not yet ready to rent or buy a decent home, the government embarked on building public housing projects. Many have become government-built ghettos for very poor, mostly black tenants. Many units suffer from disrepair and run up losses for the local governments that own them.

The housing laws of the 1960s constitute an entirely new approach, The government would finance indirectly, through FHA mortgage insurance and the paying of interest on mortgages from private investors, the efforts of private businesses and groups to build housing for those too poor for regular FHA programs and not poor enough to qualify for public housing.

The laws were designed to help build and renovate housing for both sale and rental to poor families. The government also was authorized to pay much of the mortgage interest for low-income home buyers and pay part of the monthly rent for low-income tenants.

A nonprofit group or limited dividend corporation can go to HUD with plans to build or refurbish an apartment building or home for a low-income family. If the plans are approved the group can get an FHA guarantee to insure the mortgage and pay some of its interest. The applicant must find a bank or other investor to make the mortgage loan, and get the architect, builder and the rest to get the job done.

If the apartment building or house is being rented, the group or corporation keeps ownership of it and is responsible for its maintenance.

Nonprofit groups are expected to break even. And, at the end of the 40-year mortgage, the church or union or neighborhood group would own a building free and clear.

A limited dividend corporation—usually an established builder or a syndicate of investors put together by a builder—is allowed to make a 6 per cent return on its investment. What makes it more attractive is that investors can deduct depreciation of the finished building from their income at tax time.

Speculative home builders who put up houses that are inexpensive enough can sell them to low-income buyers with the mortgage guarantee and much of the interest on it paid by the federal government.

Finally, nonprofit groups like Washington's Urban Rehabilitation Corporation (financed by the Catholic archdiocese and overseen up to now by the Rev. Geno Baroni) can take old, rundown houses and get FHA-insured loans to rehabilitate and sell them to low-income buyers.

All of these opportunities, however, have been encumbered by a meager supply of money from Congress and severe restrictions in both the legislation and FHA procedures on how the programs could be carried out.

Donald Reape, a Philadelphia mortgage expert who helps get investors, mortgage money, builders and FHA officials together for subsidized housing projects (in the trade he is called a "packager") says that investors in limited profit corporations are "lined up" waiting for federal funds to get to work.

But so little money has been appropriated for the programs so far that HUD funds are usually used up within months of becoming available. Disappointed investors are being turned away.

The one problem many of the limited profit companies usually can handle is FHA red tape. The reason is that the builder or real estate expert who puts a limited profit company together has had this experience.

But FHA red tape, lack of technical expertise and scarcity of venture capital all combine to hamper severely what Congress expected to be the other primary source of subsidized housing: nonprofit groups.

"Generally," says Don Reape in Philadelphia, "the nonprofit sponsor has not gotten the job done."

Reape acts as the paid adviser for churches, unions or civic groups that try to build big subsidized apartment buildings. He is paid out of the proceeds of the mortgage loan for the building.

He knows what they don't know about how to find a mortgage lender, a builder and subcontractors; about how to deal with FHA, local officials, zoning boards, and the like.

He places little importance on the Nixon administration's Operation Breakthrough project to find ways to massproduce housing.

"What we need are more funds now," he says, "We must face that."

Small nonprofit groups that want to redo a house or two, or build a very small apartment building, cannot pay a consultant, Reape says, yet they must go through the same complicated, time consuming processing required for big projects that pay consultants' fees.

The usual result, Reape said, is that the small nonprofit group gives up. Or, they proceed naively through projects that wind up in financial disarray when they are finished.

Another arm of the government, the Office of Economic Opportunity, tried to attack the nonprofit problem by funding larger nonprofit groups called "housing development corporations." Washington's HDC, which is now renovating Clifton Terrace, is one of these.

The OEO grants pay for large staffs of experts for these groups, and, along with grants from other sources, provide working capital with which they can acquire property to build in and prepare good initial development plans for FHA.

But even for these groups, the red tape tangle, rising construction costs and shortages of federal subsidies have made the hope of large-scale housing production "a hoax," according to an official of Philadelphia's HDC.

Philadelphia contains more than 15,000 abandoned brick rowhouses, according to official city estimates, an ideal resource for renovation of housing for the poor.

But Philadelphia's HDC has been able to renovate only 30 for sale to low or moderate income families.

The Philadelphia Public Housing Authority, however, was able to bypass FHA red tape and restrictions and, through the offices of HUD that provide public housing assistance, renovate nearly 5,000 of the same "used houses" for rental to public housing tenants.

Washington's HDC has tied up $400,000 in capital in contracting for buildings for construction and renovation, but thus far has gotten FHA approval for just four of 10 pending projects. Four of those not approved have been pending for more than a year.

Frank DiStephano, an Urban America, Inc., employee who watches the nation's 12 HDC's for OEO, says they still are not being provided with enough operating funds from the government, enough capital from private sources (who would be repaid when a job was finished), or enough expert advice and help from HUD.

Their production of housing has gone "only from nothing to a little," DiStephano says.

He also wants to see construction costs and the prices for acquiring land drop so that the rents charged the tenants can be dropped. These programs are still serving "moderate" income families, and not really "low" income persons, DiStephano complains.

And he joins with several others in the field, including top HUD officials, in calling for a concerted national commitment to provide housing for the poor, a commitment like that which put men on the moon.

"We kept hearing about the promise of these new housing laws,' Reape says. "But these people can't live in promises."

PROF. PHILIP B. KURLAND AND "THE NEW AMERICAN UNIVERSITY"

Mr. ERVIN. Mr. President, I wish to commend to the Senate an address by Philip B. Kurland, professor of law at the University of Chicago and editor of the Supreme Court Review. His remarks, given at the quarterly meeting of the Chicago Bar Association on January 22,

1970, are entitled "The New American University."

For those of us who care about the quality of scholarship in our universities today, Professor Kurland's address should be profoundly disturbing. We who know Professor Kurland, and have the pleasure of working with him, realize that he does not arrive at his observations casually.

Professor Kurland has surveyed the condition of higher education today and has concluded that it is moving in the wrong directions: Toward politicization, egalitarianism, and the rejection of reason. Without assuming the position that our traditional university systems are above fault, he has concluded that these three movements are at the expense of the central purpose of education: To communicate ideas so that society may progress.

Mr. President, Professor Kurland does not ascribe the malignancy in many of our universities today wholly to the students; he understands that faculty members and administrators as well are involved. And he believes—in this one instance, I sincerely hope that he is wrong—that the destructive elements in our universities may well prevail.

Professor Kurland is a man with a consuming dedication and respect for learning, and I think every Member of Congress should pay heed to the wisdom of his remarks. I urge that all Senators take the time to read this address—it is not long—and to consider the points which Professor Kurland has raised. We should ask ourselves whether we are prepared to allow irrationality in our universities to overthrow scholarship.

Mr. President, I ask unanimous consent that the complete text of Professor Kurland's remarks be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE NEW AMERICAN UNIVERSITY

Those who invited me to speak tonight were unkind enough to leave the choice of topic to me. When I accepted the invitation, I thought I would talk about the "new" Supreme Court of the United States. That exalted body, however, has proved uncooperative. The Burger Court has been most reluctant to render any decisions worthy of comment. I have chosen instead, therefore, what is for me an equally distressing subject: the "new" American university. The similarities of the two problems of the two American institutions that I most revere should become patent to you as I proceed. For my essential concerns about both are with the effects of three recognizable trends. These are the tendencies toward politicization, toward egalitarianism, and toward the rejection of reason. And I should emphasize that what I shall have to say tonight about the new university is offered more in sorrow than in anger.

For a snapshot—not a full-blown portrait—of the new American University, I offer an item from the *New York Times* of about a week or so ago. With your indulgence, I shall read the entire news story. The dateline is West Berlin, Germany:

"Twenty-eight professors of the Free University of West Berlin went on strike today in protest against what they described as 'student terror.' They called a one-week halt to all lectures and other university work.

"The strike closed the entire department of economic and social sciences. It followed a series of disruptions at the lectures of Professor Bernard Bellinger, an economist whom radical student groups have charged with spreading the doctrine of capitalism.

"When the groups disrupted Professor Bellinger's classes again this morning, he walked out and 27 colleagues followed. Last night they had threatened to do so in the case of new harassment.

"Caught between the students and the faculty, was Rolf Kreibich, the University's new 31-year old president, who has pledged to seek reforms. Both sides charged the president, in office since November, with having failed to take action to avert the confrontation.

"In an emergency session this afternoon, Mr. Kreibich declared that he was opposed to the practices of the students, but he urged the faculty to meet some student demands, such as appointing as 'tutor' a left-wing representative chosen by the students. Professor Bellinger and the other faculty members said that they would resist such a move."

These events in Germany do not reveal a new phenomenon there. For it was probably the parents of these very students who so effectively engaged in these very same tactics toward similar goals in the 1930's. But for American universities, this is a relatively new practice. You must not be deluded by the silence or apathy of the press into a belief that this can't happen here. Similar student behavior, similarly motivated, has recently occurred at Columbia, at Yale, at Harvard, even at The University of Chicago. (It was just the other day that a so-called "moderate" student leader congratulated faculty representatives at one of these universities because the students hadn't brought guns with them to assist their otherwise limited persuasive capacities.)

A certain mythology has developed about the new student movement that is the catalyst in the transformation of American universities, a mythology that derives essentially from the sap that so readily pours forth at commencement exercises. Some of it is classic and can be traced back through commencement speeches for generations past. And, as with most myths, there is an element of truth in it.

We are told that this, *i.e.*, the current student generation, is the best informed group of students that we have ever known. It's a generation with lots of new scientific data and almost no knowledge of history. It is an amnesic generation. And to the extent that they are better informed, it is through information provided them by their predecessors. As has been noted before, even a pygmy can see further than a giant, if he is standing on the giant's shoulders.

It is said that this is the student generation whose morality is somehow higher than those who preceded, it because it is a sincere group. Indeed, sincerity is suggested to be adequate excuse for any misconduct they may indulge. But there are precedents here, too. Theirs is the morality and sincerity that have typified all the zealots that have come before them. Theirs is the morality, for example, of the Spanish Inquisition that sincerely sought to save the souls of men, even if it had to send them to Hell by fire in the course of making the effort toward reform. It is a morality that justifies its admittedly miserable means by its allegedly enlightened ends. The fact is that this student generation is not a righteous group, only a self-righteous one.

Finally, the myth has it, that the recalcitrants among the students are only a small number of the student population. And this, too, is true, if the only ones to be counted are those active in using force to impose their wills. But if one looks to the numbers who are either sympathetic to or apathetic about such behavior, the proportion is very high indeed. One looks in vain for student opposition to the destructive activities of their colleagues. For the fact is that a very large number of students are in sympathy with the goals of the so-called student movement.

It is, perhaps, also necessary to say that there are many legitimate complaints to be made about the workings of American universities, legitimate in the sense that they reveal the failure of universities to seek their announced objectives. It is true that many professors—frequently those most vocal on behalf of the student movement—don't have time for teaching students. It is true that foundation and government grants have skewed faculty research so that, in many instances, they represent choices not by individual professors but by those who control the purse strings. It is true that much university education is irrelevant, not only to the students' aims but even to the classicly professed goals of a university. It is true that universities either require or permit an inordinate amount of time to be spent by students at school in order to earn a license to practice a trade or profession. It is true that universities have been unduly tolerant of faculty and student mediocrity. But these defects are not the ones at which student reform is directed. And, indeed, to the extent that universities are moving to correct these deficiencies, the student movement affords a barrier and not an aid.

Nor should the blame for the students' excesses be placed solely at the feet of the students. For university faculties are, like the students, either sympathetic to, acquiescent in, or apathetic about such student behavior and its consequences.

The first objective of the new university movement, as I read it, is the politicization of the university. This has both internal and external aspects. At the highest—most abstruse—level this means the attempt to capture the university as a pressure group to affect national policies. At this level, the objective is ludicrous, for it is grounded on two absurd premises. First, that the university is a monolith, indeed that all universities combined as monolithic. Second, that universities are capable of being a strong pressure group for bringing about change in national policy about anything. The effect of university pressure on national policy is indeed immeasurable if not nonexistent. This is not to deny that some inhabitants of the groves of academe have individually played important political roles. It is to deny the equation between individual faculty members and their universities.

At a more mundane level, the new university objective is to force the universities to utilize their resources for social improvement in the communities in which they are located: to house the ill-housed, to feed the hungry, to provide medical, legal, and recreational facilities to those who need them, to provide elementary education for illiterates, and so on. These are certainly worthy goals. But even the total resources of the universities are inadequate to these ends. Any partial commitment of university resources to these goals means that they have to be taken from the other functions that a university performs, essentially the gathering and communication of knowledge by those able to make the discoveries and those best able to utilize them. Indeed, if the universities do not die by the sword of the new university movement, they may well disappear for lack of financial sustenance.

The problem of internal politicization is equally taxing on the primary functions of the university as we have known it. The objective here is to treat a university as if it were a governmental body which must be democratized to be legitimized. But the function of university governance is not the exercise of power. The function of university

governance is the provision of services that make it possible for scholars to research, for teachers to teach, and for students to learn.

It used to be asserted that the trouble with the new student generation was its belief that no decisions of a university or any other institution were made on principle; that all decisions were made in response to pressure. To disprove the contention academics would cite the exemplary behavior of many universities in their successful efforts against the pressures of the late, unlamented Senator McCarthy and his epigone to dictate who shall be employed at what tasks in a university. At the same time, the fact is that the universities are now beginning to demonstrate that the student attitude is correct, by their response to the pressures of these studens. Policization has already occurred.

Let us take a couple of current examples. For years, the Department of Defense has supported medical research into the cause and cure of specified diseases. And university medical schools were eager and willing to use the money supplied for these purposes. Under new law, sponsored by Senator Fulbright among others, the Department of Defense must certify that any research moneys that it spends are spent for projects directly connected with defense goals. It is suggested now, because the Department of Defense is prepared to certify certain medical research in this manner, that the universities must reject the funds because the research is suddenly tainted. This taint means only that many on campus would object—without knowledge of or interest in the substance of the research effort—because of the Defense Department label that it bears. One would think that the merits of the research or its proper place in a university would remain the same whatever the certification of the Department of Defense. When university administrators decide that the kinds of research it can undertake shall be determined by consensus on campus—or even worse by consensus among those who might otherwise make trouble, it has abdicated to the new McCarthyism even as it refused to surrender to the old McCarthyism. Again, if, as has been suggested, a university must reject research into genetic differences between Blacks and whites, because the product of such research might contradict some of the dearest values asserted by some members of the university community, the university is proving not disproving that political values are determinative of the university's behavior. When these hypotheticals become facts, the university is no longer engaged in the search for knowledge. It is then seeking proof only of the dogma of the disciples of modernity, and dogma, of course, needs no proof. You know in your hearts when it is right. As this pattern of pandering to loudly voiced opinions emerges, it seems clear that the university has already succumbed to politicization. And those university presidents who are enjoying—according to the *New York Times*—the peace that has descended on campuses during this academic year might recognize that it has been bought at the price of surrender.

One part of the dogma of the new university is its concept of egalitarianism. An "egalitarianism [which] denies that there are inequalities in capacity, eliminates the situations in which such inequalities can exhibit themselves and insures that if such differences do emerge, they will not result in differences in status." [John Gardner.] Thus, students must be admitted without regard to their demonstrated intellectual capacities. Students must not be graded because this results in invidious comparisons between those who have performed well and those who have not. Faculty members must be hired or retained not because they have shown capacities for research and teaching in a given area, but because we must assign appropriate egalitarian quotas by sex, by race, by political persuasions, and—in remembrance of things past—by religion. Moreover, the judgment about faculty capacity is not to be made by those knowledgeable in the field, but by students, in terms of how they "relate" to the faculty member—him or her or it, as the case may be.

It is this egalitarianism that bottoms the claim of students to participate in the governance of the university. The fact that they indicate no knowledge of the function of university governance is irrelevant. It is argued that when they are admitted to the university community as students, they have been judged competent to share in university administration. They are, indeed, right, if their concept of a university as an egalitarian political institution is accurate. Only if the old-fashioned notion were to prevail that a university is a place exclusively for the discovery and communication of knowledge by those best qualified to perform those tasks should the student claim for a share in university government be rejected.

The proponents of the new university are riding a tide of egalitarianism that is sweeping before it not only the university but many other institutions. We are beyond Gertrude Stein's "a rose is a rose is a rose." We are arrived at the point where a dandelion is also a rose, however different it looks or smells. But universities have been particularly vulnerable to the equalitarianism that is being proferred because of the use to which the universities' pseudo-sciences have long been putting the science of statistics. We have come to see the truth of Thomas Reed Powell's description of the new knowledge as a science in which counters don't think and thinkers don't count. By reducing humans and human activities to statistics, we provide fodder for computers. By reducing humans and human activities to numbers, the new men make them fungible. They are no longer individuals; they are no longer human.

In his recent book, *The Decline of Radicalism*, Professor Boorstin suggested the sway that the statistical age has imposed on us. "It is no wonder that statistics, which first secured prestige here by a supposedly impartial utterance of stark fact," he said, "have enlarged their dominion over the American consciousness by becoming the most powerful statements of the 'ought'—displacers of moral imperatives, personal ideal, and unfulfilled objectives." For all the ridicule heaped by them on President Johnson, the new university men would reduce the university community to goverance by consensus.

The most obvious victims of this egalitarianism in the university community are its notions of individuality and excellence. Individuality and the consequent freedoms of the individual are anathema to the egalitarianism of the new university which requires, in Learned Hand's words, that "relations become standardized; to standardize is to generalize, and to generalize is to ignore all those authentic features which mark, and which indeed alone create, an individual. . . . The herd is regaining its ancient and evil primacy; civilization is being reversed, for it has consisted of exactly the opposite process of individualization."

Excellence, too, is a quality totally inconsistent with the egalitarian ethos as expounded by the new university men. The dirtiest words in their lexicon are "elite" and "professional." Any suggestion of special capacities derived from intellect and training is inconsistent with the new dogma. And, under such circumstances, there surely is no place for the old kind of university which put a premium on high intellectual attainment and sought to make it a goal.

Perhaps the clearest conflict between the new and the old is to be found in the new university men's rejection of the life of the mind, of the uses of reason. As part punishment for my sins as an elected member of a university faculty's consultative body, I had the dubious privilege of visiting a building just evacuated after a sit-in by some of the new university men. The descriptions that you have read elsewhere—only the other day about the building seized at M.I.T.—should suffice for any man's taste. What I found most horrifying was not the evidences of defecation in the offices and halls, not the wanton destruction of equipment and furniture, not the stench and the mess, but the slogans painted everywhere which called—in language somewhat more picturesque than mine—for the destruction of "the life of the mind." For it is here that the new university makes clear its incompatibility with old university.

The life of the mind is the focus of the old university. It is only engagement in the rational testing of ideas new and old that justifies the old university's existence. In President Levi's words: "Universities . . . have kept alive the tradition of the life of the mind. . . . It is an approach to education which emphasizes the magic of a disciplined process, self-generating, self-directing, and free from external constraints. An approach which requires an independence of spirit, a voluntary commitment. It forces the asking of questions. It is not content with closed systems. It is not committed to the point of view of any society. It does not conform to the ancient and now modern notion that education is here to carry out the ideas and wishes of the state, the establishment, or the community. Thus, it is opposed to the view that education is good if properly controlled."

One of Goya's etchings bears the inscription: "The sleep of reason brings forth monsters." In the new university, cause and effect are reversed. Monsters threaten to bring forth the sleep of reason. And, as C. P. Snow said in his recent novel with the title borrowed from Goya: "Put reason to sleep, and all the stronger forces were let loose. We had seen that happen in our own lifetimes. In the world: and close to us. We knew, we couldn't get out of knowing, that it meant a chance of hell." And here lies the essence of the generation gap. For the young have not seen reason put to sleep and more primitive forces unleashed except on an individual basis.

Whether the new university with its preference for instinctual forces over reason, with its preference for egalitarianism over individuality, excellence, and professionalism, with its preference for political rather than intellectual objectives—whether the new university will prevail over the old is not yet fully determined. But the odds are in its favor. For there are too few to stand up and fight against the perversions that are promised. Too few students; too few faculty; too few university administrators. Those among them who do not endorse the new university prefer to compromise with it. Once again the price of peace in our time may prove exorbitant.

FIRE PREVENTION REGULATIONS FOR NURSING HOMES

Mr. MOSS. Mr. President, I ask unanimous consent to have printed in the RECORD my opening statement delivered as we began our hearings this morning and related to the nursing-home fire in Marietta, Ohio, on January 9, which has to date taken 32 lives.

I underline a few recommendations.

First, medicare's conditions of participation in extended care facilities must be revised to include compliance with the life safety code of the National Fire Protection Association.

Second, the Department of Commerce should promptly implement the Flam-

mable Fabrics Act and should replace its proposed "pill test" as it relates to carpet and rugs with the UL–723 tunnel test.

Third, carpeting manufacturers should label their product in such a manner as would inform the public to its flammable properties under this tunnel test and should sell only class A or class B carpet to nursing homes, hospitals, and schools.

Fourth, Congress should accept Mayor Burnsworth's suggestion and prohibit smoking except in specified areas in hospitals and nursing homes where patients are confined without the ability to ambulate. I shall introduce a bill to this effect.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY HON. FRANK E. MOSS, CHAIRMAN, SUBCOMMITTEE ON LONG-TERM CARE OF THE U.S. SENATE SPECIAL COMMITTEE ON AGING

January 9, 1970, was the most tragic day burned into the history of the quiet city of Marietta, Ohio. Exactly one month ago today fire and smoke billowed through the Harmer House Nursing Home in Ohio's oldest city while most of us were safe at home watching, *Here Comes the Brides,* or the *Friday Night Movie.*

Twenty-one persons lost their lives that night and the present death toll stands at 32 with 11 patients remaining in the hospital. Only three patients out of the 46 in the home escaped death or disabling injury.

Our presence here today indicates our belief in the perfectability of man's nature and our refusal to accept disaster as inevitable.

An accident by definition is an admission of human error. Even a cursory inventory reveals that there were human errors which contributed to the fire in Ohio. For our investigatory purposes today, we pose these errors in the form of questions which fall essentially into four interrelated categories.

The first category is marked by these questions:

How did the fire start?

Why was there such a substantial loss of life?

It must be noted that this was a new, well-constructed nursing home with large windows in patients' rooms. It had a simple one-story floor plan and the evacuation of patients should have been possible within a very short time.

The second category focuses on the Government and responsibility must fall equally upon the Congress and the Public Health Service. The question here is:

Why are there no requirements for fire safety under Medicare?

It is true that the conditions for participation in the Medicare nursing home program do make some suggestions for fire safety under Section 405.1134. Regrettably, the statute spells out in unequivocal terms that the "requirements" are merely *guidelines.* And as if this were not enough, this same paragraph contains a further disclaimer that these guidelines ". . . are to be applied to existing construction in the light of community need for services."

I am asking here today that the Public Health Service tell me why there are no fire safety requirements under Medicare. If PHS or the Social Security Administration needs more legislative authority, I will introduce legislation forthwith.

The third category of questions is related to the second because the Medicare guidelines make reference back to the State statutes. Obviously, the result is a different fire standard for participation in the Medicare nursing home program for every State of the Union. Our concern here is with the Ohio statute.

Ohio has had more than its share of nursing home fires. Most of us will recall the nursing home fire near Sandusky in 1963, when 63 persons perished. This Committee investigated that fire and I received promises that the Ohio Code would be revised so that it would be the model fire safety code for the entire country.

It isn't. Far from it. On the contrary there continue to exist serious deficiencies. Not the least of these deficiencies is its failure to provide any semblance of a standard for the acceptability of carpets and curtains. Admittedly, there is a vague reference in Section HE–17–47 spelling out the requirements for interior finish and trim. The requirement is that finishing material have at least a class D flame spread resistance. For purposes of comparison the Hill-Burton Act requires class A furnishings with a flame spread rating from 0 to 25 in corridors and exit ways; it requires a minimum of class B material for patients' rooms which calls for a flame spread rating between 25 and 75. Finishing material in the class D range have a flame spread rating between 200 and 500. As a point of reference class D materials will burn 2 to 5 times as fast as red oak.

My questions here are:

Why do the good people of Ohio continue to tolerate these anemic fire requirements?

How many other States have statutes which are lax on fire standards?

And is the report I have true that the State of Ohio continues to have the same number of inspectors (four inspectors for the 1162 nursing homes) that they had before the Fitchville fire of 1963 in which 63 lives were lost.

My fourth category of questions relates to the Flammable Fabrics Act that was signed into law December 14, 1967. Regrettably no new standards have been issued for any textile product under this Act. As William V. White, the Executive Director of the National Commission on Product Safety points out, "We still use, two years later, the outdated standard incorporated in the original Flammable Fabrics Act of 1953." The 1953 Act allows 99 percent of all fabrics marketed to pass as acceptable for public use.

My question is: Why?

Why do we continue to be governed by the 1953 legislation?

I am sure that Senator Magnuson of the Commerce Committee, and Senator Williams here beside me as co-sponsors of the 1967 legislation share my sense of frustration.

My next question is to ask why the Federal Government today persists in buying flammable fabrics and clothing for use in Federal offices, hospitals, nursing homes and dependent's housing at military bases? To my knowledge, a detailed recommendation was made to the Surgeon General of the Public Health Service more than four years ago urging that new standards and purchase specifications for fabrics used in Federal installation contain provisions to insure the degree of flame retardency required to prevent personal injury and death. No action has been taken on this recommendation to date.

I ask: Why not?

I find it significant that the Secretary of Commerce has exercised his regulatory power under the 1967 Flammable Fabrics Act in only one area. On December 17, 1969, the Secretary announced his proposed Flammability Standard on Carpets and Rugs. This standard incorporates the use of a methenamine pill as an ignition source, which in effect, is dropped on a small piece of carpet and the spread of the flame is then measured.

My question is why did the Secretary choose this modification of the so-called "pill test"? It is clearly obvious that this is a low and inadequate standard. The compound methenamine has been around for a long time and up until the Secretary's pronouncements its principal use was a reagent to combat urinary infections. It wasn't any good for that either. In this most independent experts are agreed, the pill test is a test for ignition—it is not a test for flammability. By the admission of the Department of Commerce, the test does not cover smoke emission or gasses given off by burning carpet. Reportedly, it does not apply to the sponge rubber backing used with carpets. Most significant of all, the carpet in the Harmer House Nursing Home which has received the attack of many as being the premier cause of death at Harmer House, I am told, passes the Secretary's proposed pill test. We hope to have a demonstration to this effect about noon today.

In short, as Chairman of the Subcommittee on Consumer Affairs of the Commerce Committee and as Chairman of this Subcommittee which oversees the needs of our infirm elderly, I am asking the Secretary of Commerce to report to me as to why the Flammable Fabrics Act has not been implemented, and why, in the only situation where we do have implementation, is the announced standard so inadequate. The reports that I receive from the Secretary of Commerce, the Public Health Service and the Bureau of Health Insurance as to the lack of any Medicare fire standards will be released to the press.

As we begin our hearing I would like to express my appreciation to the Chairman of the Full Committee, Senator Harrison A. Williams of New Jersey for his confidence and assistance which enabled a prompt investigation of the events of the Marietta fire. I acknoweldge what every Senior citizen knows, that Senator Williams is the number one man in the field when it comes to looking after our elderly. He is the model that all of us would like to emulate. Wherever I go across the country to meet with our senior citizens, I am invariably asked to convey warm thanks to Pete Williams for his efforts.

NEGRO HISTORY WEEK—SENATE JOINT RESOLUTION 41

Mr. SCOTT. Mr. President, the 44th annual observance of Negro History Week is now in progress. A committee of the National Education Association and the Association for the Study of Negro Life and History jointly sponsor Negro History Week in February during the period embracing Lincoln's birthday and Frederick Douglass' birthday, February 12 and 14, respectively. This year, Negro History Week is observed from February 8 to 14, and has as its theme "The 15th Amendment and Black America—in the Century 1870–1970."

I have introduced Senate Joint Resolution 41 which would authorize the President to proclaim that each year the 7-day period, from Sunday to Saturday during which February 12 and 14 fall, be designated Negro History Week.

This observance goes back to February 1926 when Dr. Carter G. Woodson, founder and director of the Association for the Study of Negro Life and History launched some public exercises emphasizing the salient facts of history influenced by Negroes—mainly facts brought to light by the research and publications of the association during its first 11 years. This timely step was warmly received by the black community through its schools, churches, and clubs and the movement gradually found support among nonblack institutions in America

and abroad. Today, this observance enjoys widespread participation.

Negro History Week arouses people to a broader appreciation of the contributions of black people in Africa and the United States to civilization so that people, white and black, are realizing that civilization and culture are the heritages of the centuries to which all peoples have made some contribution.

To promote Negro History Week, the Association for the Study of Negro Life and History publishes special issues of the "Journal of Negro History" and the "Negro History Bulletin." From its preserves and collections of materials and documents about the history of the black people, the Association supplies schools, colleges, libraries, and community centers with special books on the Negro.

Negro History Week, which commemorates the democratic ideals of Frederick Douglass and Abraham Lincoln, and recognizes the contributions of the black man to our present day society, should be observed on the National, State, and local levels of our country.

Senate Joint Resolution 41, if enacted, would greatly advance and increase these observances.

A NEW YORK TIMES EDITORIAL—"SOPHISTRY ON GENOCIDE"

Mr. PROXMIRE. Mr. President, I am pleased to call to the attention of Senators an editorial entitled "Sophistry on Genocide," published in the New York Times of February 7. The section of individual rights and responsibilities of the American Bar Association is asking the association's house of delegates to support ratification of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide.

In practical political terms, the section report stated:

> Not to sign the Genocide Convention is to dissipate one's influence and to supply fuel for those who characterize the U.S. as the great hypocrite.

The Times editorial states also:

> After two decades of inaction, based on sophistry and outright hypocrisy, there are signs that the United States may at last be moving to ratify the International Convention on the Prevention and Punishment of the Crime of Genocide.

As one who has long urged Senate ratification of the genocide as well as other human rights conventions, I can but reiterate my hope that the ABA will give full and strong support to the Genocide Convention; and I earnestly urge Senators to seize the earliest possible opportunity to ratify this convention.

I ask unanimous consent that the editorial be printed in the RECORD:

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 7, 1970]

SOPHISTRY ON GENOCIDE

After two decades of inaction, based on sophistry and outright hypocrisy, there are signs that the United States may at last be moving to ratify the International Convention on the Prevention and Punishment of the Crime of Genocide.

This country played a leading role in drafting and winning unanimous United Nations General Assembly approval of the Genocide Convention in 1948. It was among the first to sign the document.

Despite this initial enthusiasm for a cause that is clearly in the American tradition and interest, ratification has been stalled in the Senate since 1950 because of constitutional objections raised at that time by the American Bar Association and by some Southern Senators. The Southerners voiced fear that the Convention might permit a foreign court to try American citizens under procedures alien to this country for such crimes as the lynching of Negroes.

Specious arguments of this sort have now been firmly cast aside by a standing committee of the A.B.A. and by Attorney General Mitchell, who has joined Secretary of State Rogers in recommending that the President press for action in the Senate. The A.B.A. group points out that the Convention provides for prosecution in national courts or in an international tribunal which, in fact, has not been established. If such a tribunal were set up, it would not have jurisdiction over Americans without the prior consent of the United States Government.

The A.B.A. meeting in Atlanta later this month can help restore this nation to its proper leading role in the development of international law for the protection of human rights by taking a strong stand in favor of prompt Senate ratification of the Genocide Convention. President Nixon's endorsement of the Convention is even more essential. It is an international disgrace that the United States, of all nations, is not among the 75 nations that have already completed ratification procedures.

COST OF POLLUTION CONTROL: THE EXPERIENCE OF BRITAIN

Mr. MOSS. Mr. President, our entire Nation is concerned, and deeply concerned, over the degradation of our environment through pollution of our air and water. Measures to eliminate or control such pollution are costly, and necessarily will have an impact on industry and on our economy.

This impact and this cost must be faced when we are considering antipollution measures and environmental control steps. The minerals-producing industries—oil and gas, copper, lead, zinc, coal, and all of the other myriad metals and fuels vital to our American way of life—have particularly heavy responsibilities and burdens with respect to pollution. Necessarily, they disturb both the surface and subsurfaces of the land. Waters are involved in either the extractive processes themselves or in refining and smelting, or both, and the latter results in pollutants being discharged into the atmosphere.

The minerals industries, or at least some segments of it, are taking vigorous steps to combat land, air and water pollution. Many States have antipollution and surface mining laws as does the Federal Government with respect to water and air pollution.

While these efforts and these laws are absolutely necessary, we should be aware of their costs and impact. Accordingly, the Subcommittee on Minerals, Materials, and Fuels of the Interior Committee is planning a series of hearings to enable spokesmen for the minerals industries to make known what they are doing in the way of pollution control and what the economic and technological impact of antipollution measures is on their industries.

Mr. President, by way of background for these planned hearings, I ask unanimous consent that an article published in the Washington Post of February 5, relating to the economic impact Great Britain is experiencing with pollution control measures, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 5, 1970]

BRITISH STAND FAST IN BATTLE AGAINST POLLUTION OF ENVIRONMENT

(By Alfred Friendly)

LONDON, February 4.—Britain is holding its own in the war against pollution. In the long term, it may even win—or come as close to winning as the facts of a crowded and industrialized society permit.

The explanation for what would appear as an achievement and a hope unique in the Western world is that Britain has gritted its collective teeth, has begun to pay some of the inescapable costs and seems resolved to keep doing so, up to or beyond the limits of its strained pocketbook.

Its fight against contamination of the environment is in every way tougher than an equivalent one would be in the United States. Britain is basically much poorer, per capita and in the absolute; it is proportionately more dependent on the kind of industry and transport that pollutes; it puts 12 times more pressure of people on every acre than in America and its problem has been festering much longer. British rivers, for example, have been polluted for a century while in America they began to grow foul only a couple of decades ago.

Yet there seems to be here, as there seems not yet to be in other advanced nations, Sweden excepted, a national resolve, no longer subject to challenge, to pay the money and submit to the tough restrictions necessary for decent living.

Some 360 authorities, London included, prohibit the burning of anything but smokeless fuel—with the government defraying the individual costs of householders switching or modifying their heating equipment.

This has meant the end of lovely log fires or chunks of crackling coal on the roaring hearth, and in their place the much less inspiring glow of electric heaters or, at best, coke briquets on the grate. But it has also meant the end of the black fogs.

To be sure, nature is no less malign and still sends rolling clouds of fog tumbling now and then over this winter city. But the choking opaque clouds that American visitors remember are things of the past.

The Thames has been without fish for a century. But by 1968 some 40 different varieties had come back to the river.

In the battle for the environment, Britain is advantaged by a—relatively—unified command. By the law and by the possession of the money bags, the central government exerts far more power and control than in the United States. When the Ministry of Housing decrees that no new dwelling may be built without sewage facilities of such and such a standard, there is no argument.

The central government also carries out the provisions of a national law 107 years old, the Alkali Act, which now covers 56 separate industrial processes. It requires every factory in those industries to use "the best practicable means" to prevent the emission of grit, fumes, smoke and gasses, and to render harmless and inoffensive those emissions that are unavoidable.

In all, there are thousands of regulations of some 12 cabinet departments and hundreds of lesser authorities aimed against pollution and contaminants.

Smoke and grime still belch over the Midlands, harbors remain foul and many a river stays rancid and algae-covered. Trash dumps and auto graveyards still mark the landscape. The horrible and dangerous coal tipples blight the mining areas. And so on.

But, with the possible exception of oil and tar on the beaches, the situation is getting no worse. That is the appraisal of Lord Kennet, who, as parliamentary secretary of the Ministry of Housing and coordinator of department of programs, is the nearest thing there is to an antipollution boss.

His thesis is that, with rare and usually quickly solved exceptions, there is no contaminating factor in the environment, including noise, that defies a technical solution. All it takes is money.

"Like the diffuse pluralistic beehive that it is," Kennet declares, "the British body politic [is] renewing and adjusting itself to the problem of pollution."

Since the Labor government came to power, it has put through 11 national laws of far-reaching impact on clean air, fisheries, mines, rivers, sewage, medicines, farm chemicals and nuclear installations. It has seen to it that public authorities spend a quarter of a billion dollars a year on sewerage and sewage disposal. It has made industries covered by the Alkali Act spend half that again in the past 10 years on capital expenditures and close to three-quarters of a billion on running costs to keep down pollution. It requires clean exhausts on all trucks (although it has not yet got around to California-style regulations for passenger cars).

The picture that emerges is of a nation armed with many controls against pollution and able to enact most of the rest it needs without the harrowing political struggle that would ensue in the United States. But it faces a wall of economic difficulties.

The obstacles to a clean environment are neither technological nor legal, but simply economic. On whom do you saddle the costs?

You cannot make cement without dust, or steel without fumes. You raise the price of both, whatever the mechanics of the economic arrangements, when you require a catchment of the dust and fumes. If you want milk minus the antibiotics fed to cows, the farmer's efficiency declines and the milk cost rises. If you force the packager to give up tin cans and plastic wrappers, or install equipment to dispose of them, you can do it by subsidizing the industry or paying more for municipal services. Either way, any way, the consumer-tax payer pays in the end.

There is no escaping the imperative: "Pollution control equals short-term economic disadvantage," Kennet points out.

So, unless you want to submit, cursing but helpless, to the offal of industrial progress—or alternatively, revert to a peasant economy—there is no option but to pay up.

The path to a better quality of life, in terms of quiet, cleanliness, beauty and natural amenities, will be painful and rugged and costly indeed, but this nation seems to have set its foot on it.

As a token of intent, the government has authorized the creation of a Royal Commission on Environmental Pollution. It is the first such body created by the present government that is to be permanent, its life and functions continuing indefinitely.

No government, Labor or Tory, likes to let recommendations of a Royal Commission lie around untended to. Accordingly, the new body has a chance to strike powerful blows in service of a new social objective.

PESTICIDES AND THE FARMWORKER

Mr. MONDALE. Mr. President, the New Yorker magazine of October 11, 1969, contains an article by Berton Roueche that reads like an exciting detective story, but all too unfortunately contains truth, not fiction, about the shocking realities of pesticide poisoning.

The article tells of a young boy who almost died of pesticide poisoning, but was saved only after careful detective work. The author details the advanced threat on the boy's life at the time initial care was sought. A sense of urgency was created because doctors were unable to quickly and positively diagnose the specific illness. Hours elapsed before it was determined that the youngster suffered from chemical poisoning, rather than shigellosis, or dysentery, or diabetes. Then, although the child responded favorably to treatment, shortly after returning home from 1 week hospitalization, he again became ill. The second illness triggered a search to determine the source of the harmful chemical. It was discovered that it was on a pair of the boy's bluejeans. A search was begun for other families that may have purchased bluejeans from a similar lot, and a solution was sought to the important question of how the bluejeans initially got doused with the chemical. The chemical was eventually identified as the organic-phosphate—phosdrin, and by tracing back to manufacturers and shippers, it was discovered that the chemical had apparently spilled in the same truck that was also shipping bluejeans. The chemical was spilled and was absorbed in the bluejeans which were thereafter sold in the normal course of business, without knowledge of their poisonous qualities.

The article describes a daily series of events that too often occurs, though possibly in not so complicated a form.

Organic phosphates are particularly lethal chemical pesticides that are used in huge quantities by our Nation's agricultural industry. Organic phosphates can kill, and can kill quickly. They have practically a one for one chemical similarity with commonly used CBW agents, and they act by depressing the cholinesterase activity of the nervous system. Exposure to organic phosphates can cause nausea, vomiting, convulsions, respiratory paralysis, long-term psychological effects, and death depending upon the degree of exposure.

The general public, and particularly the farmworker, knows very little about these highly potent chemicals. As confirmed in the New Yorker article, even doctors have a difficult time analyzing chemical poisoning and, even upon analysis, medical antidotes are not necessarily effective.

The use of the organic phosphates that are so lethal, and that cause poisoning which is so difficult to diagnose, is indicative of the serious gaps in this Nation's entire effort regarding agricultural chemical research, and occupational health and safety protection.

Practically the only protections that we have against the use of these chemicals are registration and labeling requirements. Yet, registration and labeling do not make pesticides failsafe, and "proper handling" is hypothetical. This is best evidenced by HEW's testimony at hearings of the Migratory Labor Subcommittee, of which I am chairman, that there could possibly be as many as 800 deaths and over 80,000 injuries each year due to pesticides. Most of these would be the result of organic phosphate poisoning.

Neither does registration and labeling solve the problem of negligence associated with the actual application of the pesticides, or of drift, or of fatalities traceable to illiteracy—farmworkers have an average educational attainment of only 6 years—or of inadequate comprehension of the English language—many agricultural workers speak Spanish.

It is clear that we must act immediately to solve the crisis situation that has developed. As chairman of the Senate Subcommittee on Migratory Labor, I am giving serious consideration to a number of possible legislative remedies.

A comprehensive program, adequately funded, that provides for the ongoing study and research of the effects of pesticides on farmworkers is an important first step.

Passage of strong and enforceable occupational health and safety legislation that must include all agricultural workers is essential.

A program of aggressive prosecution of all pesticide manufacturing violations must be instituted, and recent inadequacies in government enforcement activities revealed by the GAO must be corrected.

It is clear that the Department of Health, Education, and Welfare must be given increased authority to move quickly to ban the use of dangerous pesticides, including those, such as DDT, that have been found to have long-range harmful effects. We should give serious consideration to banning all lethal organic phosphors in favor of less toxic chemicals.

The Public Health Service must be given increased operating funds to monitor and control major areas of commercial agribusiness where pesticides are used.

Increased research funds are necessary to develop effective pesticide poisoning antidotes, and to train doctors to more quickly diagnose pesticide poisoning.

I find it particularly shocking that farmworkers are not even given notice of the use of pesticides, and that records showing the type of pesticide, or the amount and mixture used, or the method of application, are not readily available to the farm worker or the public, notwithstanding the tragic effects on the public's health. This situation also must be corrected.

Mr. President, I ask unanimous consent that the New Yorker article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New Yorker magazine, Oct. 11, 1969]

ANNALS OF MEDICINE—THE DEAD MOSQUITOES

Dr. John P. Conrad, Jr., a senior associate in a suburban pediatric group practice in Fresno, California, excused himself to the mother of the young patient in his consultation room and crossed the hall to take a telephone call in his office. The call was a request from a general practitioner on the other side of town named Robert Lanford to refer a patient to Dr. Conrad for immediate hospitalization and treatment.

That morning—it was now around four o'clock in the afternoon (on October 4, 1961)—an eight-year-old boy whom I'll call Billy Cordoba had been brought to Dr. Lanford's office by his mother. Billy had been sent home sick from school. He was pale, his eyes had a glassy look, and his heart was a little fast. Dr. Lanford had examined him, found nothing significantly out of order, and sent him home to rest. But Billy was now back in his office, and there was no longer any doubt that he was sick. The manifestations of his illness now included a ghostlier pallor, a glassier look, a notably faster heart, rapid and irregular breathing, muscle twitches, diarrhea, nausea, vomiting, and abdominal pain. He was also confused in mind and almost comatose. Something about his inharmonious symphony of symptoms had prompted Dr. Lanford to make a urine-sugar test, and the results were strongly positive, that suggested a frightening possibility. He was afraid that Billy was a hitherto unsuspected diabetic on the brink of diabetic coma. In any event, he said, the boy was in urgent need of sophisticated help. Dr. Conrad agreed. He told Dr. Lanford that he shared his sense of urgency, and that he would arrange at once for Billy's admittance to Valley Children's Hospital.

Mrs. Cordoba drove her son to the hospital. Billy was admitted there at five o'clock. He was put to bed, and a sample of blood was taken for immediate laboratory analysis to confirm or deny the presence of diabetes. That had been ordered by Dr. Conrad when he made the admittance arrangements. When he himself reached the hospital, at a little before six, the results of the blood studies had been noted on Billy's chart. Dr. Conrad read them with a momentary lift of spirit. The relevant values (blood glucose, blood carbon dioxide, blood sodium, blood potassium, blood pH) were close enough to normal to make it comfortably certain that despite the earlier positive urinalysis the boy was not a diabetic. But that was all. Or practically all; the studies did now show a morbid elevation in the white-blood-cell count. Other than that, the studies had no positive diagnostic significance. Dr. Conrad replaced the chart and went into Billy's room to take his first look at his patient. It was anything but reassuring. The boy was clearly sicker than he had been two hours before. Dr. Conrad sat down and began with care the standard physical examination. His findings were even more discordant than those recorded by Dr. Lanford. Billy's pulse was fast, his breathing was fast, his temperature was 100 degrees, his skin was pale and clammy, the pupils of his glassy eyes had shrunk to pinpoints, his face and arms were twitching, he was drooling saliva, and he appeared to be in almost constant abdominal pain. Twice during the short examination the pain was so great that he screamed. He was still confused, still comatose, still nauseated, still diarrheic. Dr. Conrad finished the examination and sorted out his impressions. They led in two distinctly different directions. One possibility was shigellosis, or bacillary dysentery. The other was chemical poisoning.

"I didn't particularly favor the idea of shigellosis," Dr. Conrad says. "It was simply suggested by some of the clinical evidence—the high white-cell count and the gastrointestinal symptoms. And I didn't favor it at all for very long. A shigella infection produces a rather distinctive kind of damage that can be detected by miscroscopic examination of a stool specimen. It isn't conclusive, but it's reliable enough to be useful. Well, I asked the laboratory for a report and the answer came back in a matter of minutes. Negative. I wasn't much surprised. Chemical poisoning had always been by far the stronger possibility. The very bizarreness of the symptoms was suggestive of poison. Certain particular symptoms were even more suggestive. Stupor. Abdominal pain. Salivation. But the real tipoff was those pinpoint pupils. What I had in mind was an insecticide—specifically, one containing an organic phosphate. That isn't as inspired as it may sound. Fresno County is a big agricultural county. It produces everything from cantaloupes to cotton, and it uses tons of highly toxic chemicals. Including organic phosphates. Then Mrs. Cordoba said something that seemed to make my hunch a certainty. I was asking her the usual questions for Billy's personal history, and she remembered a remark that Billy made when he came home sick from school. The Cordobas live on the edge of town, and there are cultivated fields all around the stop where Billy waits for the bus. That morning, Billy said, there was a spray rig working in one of the fields and a spray plane flying back and forth overhead. Organic phosphates can enter the body in various ways, but the commonest route is absorption through the skin. Also, they work very fast. Symptoms can begin with a couple of hours of exposure. And it doesn't take much of the stuff to cause a lot of trouble. The fatal skin dose is only about five drops.

"I was practically certain that Billy had been poisoned by some organic-phosphate insecticide. I was sure enough to start treatment on that assumption. I followed the standard procedure. I ordered intravenous fluids to restore the loss of body fluids through sweating, salivation, and diarrhea, and a regimen of atropine—one milligram injected intramuscularly every two hours. Atropine is a lifesaving drug in organic-phosphate poisoning, because it relieves the threatening symptoms. It doesn't however, get at the source. It doesn't eliminate the poison. The next step in the treatment involves a drug called PAM—pralidoxime chloride. But I couldn't take that step—not until I was absolutely certain. PAM is a little too specific to prescribe on mere suspicion. The definitive test for organic-phosphate poisoning is a blood test that measures the levels in the plasma and the red cells of an enzyme called cholinesterase. Cholinesterase is a kind of neutral moderator. Its presence controls the accumulation of an ester that governs the transmission of impulses of the parasympathetic nervous system. Organic phosphates destroy cholinesterase, and the destruction of cholinesterase allows an excessive accumulation of the ester. The result is a powerful overstimulation of the parasympathetic nerves. The cholinesterase test is too elaborate for the average small hospital laboratory. The only laboratory equipped to do that kind of thing here is in the Poison Control Center at Fresno Community Hospital, down in the center of town. I drew a sample of blood and rounded up a messenger and got on the telephone to Dr. Bocian—Dr. J. J. Bocian, the director there. That was around seven o'clock. Dr. Bocian called me back around eight-thirty. He had the results of the test. Billy's plasma cholinesterase level was only forty per cent of normal, and his red-cell level was a scant seventeen. His illness was definitely organic-phosphate poisoning.

"It was gratifying to know that I'd made a good guess. And that I'd been able to make it in time. But the really gratifying thing was Billy's response to atropine. By the time I had Dr. Bocian's definite diagnosis, Billy was just as definitely out of danger. His vital signs were all good. Moreover, he was beginning to look more alert. His pupils were coming back to normal size. And he wasn't salivating the way he had been. I was so satisfied that I decide to hold off on PAM. Atropine would continue to counteract the potentially dangerous neuromuscular symptoms, and time would do the rest. It would gradually bring the cholinesterase levels back to normal. I stayed at the hospital until about ten o'clock, and went home feeling pretty good. I had diagnosed the nature of Billy's illness, and he was responding well to treatment. And I thought I knew just how his illness had come about.

"But I was wrong about that. It wasn't the spray rig or the spray plane at the bus stop. It couldn't have been either of them. Mrs. Cordoba or her husband or somebody made some inquiries. Those rigs weren't spraying an organic phosphate. Or any kind of insecticide. The fields they were working were cotton fields, and they were spraying a defoliant to strip the plants for mechanical picking. But I wasn't mistaken about Billy. He continued to do just fine. I kept him on atropine and intravenous fluids for a total of forty-eight hours. His symptoms all subsided and his serum cholinesterase levels began to improve. At the end of the second hospital day, he showed a plasma level of forty-two per cent of normal and a red-cell level of almost thirty-two. By the sixth day, the plasma level had risen to ninety-two per cent of normal. The red-cell concentration is always slower to recover. It requires the formation of new cells. But it was up to forty per cent. There was no reason to keep him in the hospital any longer. I could follow him the rest of the way as an out-patient. So I ordered his discharge."

Billy was discharged from Valley Children's Hospital to convalesce at home on October 9th. That was a Monday. He remained at home, sleeping and eating and resting, until the following Monday, October 16th. That afternoon, by prearrangement, Mrs. Cordoba drove him back across town to Dr. Conrad's office for what was expected to be a final physical examination and dismissal. Their appointment was for four o'clock, and they were on time.

"Billy looked fine," Dr. Conrad says. "And he was fine. Blood count, blood pressure, chest, pupils—everything was completely normal. So that was the happy ending of that. I walked Billy and his mother out to the waiting room and said goodbye and went back to my office and closed the case and rang for my next patient. I saw that patient and then the next and then the receptionist called. She sounded almost frightened. Mrs. Cordoba was in the waiting room and she was practically hysterical. Billy was sick again. He was out in the car—too sick to even walk.

"It was true. I found Mrs. Cordoba and we went out to the car, and there he was, and he looked terrible. He looked shocky. His skin was cold and clammy with sweat, and he was salivating and breathing very fast, and he didn't seem to be able to move his legs. I didn't even go back in the building to say I was leaving. I just slid in beside Billy and told Mrs. Cordoba to head for the hospital. The hospital was only a block up the street, but, on the way she told me what had happened. There wasn't much to tell. They had started home from my office, and they were almost there when all of a sudden Billy said he was sick. That was all she knew. She had turned around and driven right back to see me. But it was perfectly plain that this was the same thing all over again. Only worse—much worse. Dr. Bocian confirmed it later on in the evening. The serum cholinesterase levels were very low. The plasma level was down to twenty-seven per cent of normal, and the red-cell level was only twenty. I got Billy started on atropine and intravenous fluids, but he didn't respond as he had before. Two hours after I got him into the hospital, he was seized with severe abdominal cramps and began to vomit. Then he developed diarrhea. It was time for PAM. I ordered an intravenous injection of five hundred milligrams. The next three hours were a little anxious, but then he began to improve. And the next morning he was very much better. He had had another five hundred milligrams of PAM, and his cholinesterase levels were up enough to show that he was improving.

"That gave me a chance to think. Organic-phosphate poisoning is not a notifiable disease in California, so there had been no reason for me to report Billy's case to the Fresno County Public Health Department, but now I

thought perhaps I should. I thought I had a lead that they might want to follow up. The lead was this: For a week at home, Billy had been as good as well. Then he got up and drove over here to my office, and less than an hour later he was critically ill again with organic-phosphate poisoning. I'm not an epidemiologist, but it seemed to me that the probable source of his exposure wasn't far to look for. It almost had to be either something in the family car or something he was wearing. When I got to my office on Wednesday morning, I called the Health Department and talked to Mary Hayes. Dr. Hayes has since left the Department but she was then the acting health officer, and she was very interested in my story. She said she would have somebody look into it. She called me back on Friday afternoon. They had the answer—or part of it, anyway. The source was Billy's clothes—his blue jeans. They were brand-new blue jeans that his mother had bought at a salvage store, and he had worn them only twice. He had worn them to school on the morning of October 4th and to my office on the afternoon of October 16th. The Department had had the jeans tested and had found them contaminated with some form of organic phosphate.

"By that time, of course, Billy was recovering very nicely, and I could relax and begin to think about him as a case. It fascinated me. I'd never had a more dramatic experience in all my years of practice. Well, I'm on the staff at Fresno General Hospital and I make teaching rounds there on Monday, Wednesday, and Friday mornings, and I was so fascinated by Billy and his poisoned blue jeans that I told the internes and residents about them on my next rounds. That was on Monday—Monday, October 23rd. The next day, I got a call from one of the residents, a doctor named Merritt C. Warren. He had a new patient on his service—an eight-year-old boy. We can call him Johnny Morales. Johnny had become sick at school that morning and had been admitted to the hospital by his family physician around noon. His initial symptoms were sweating, dizziness, and vomiting. He reached the hospital in a stumbling, mindless stupor. His pulse was fast, his respiration was weak and shallow, his face was contorted by muscular twitches, and the pupils of his eyes were contracted to pinpoints. He also had abdominal cramps. The family physician had tentatively diagnosed Johnny's trouble as acute rheumatic fever, Dr. Warren thought differently. He said he thought it was another case of poisoned pants. That was the way he put it. I thought he was probably right. And he was. Dr. Bocian confirmed it by a serum cholinesterase test a couple of hours later."

The inquiry by the Fresno County Public Health Department into the case of Billy Cordoba was conducted by an investigator in the Division of Environmental Health named R. E. Bergstrom. Mr. Bergstrom, who was then senior sanitarian in the Division (he is now its director), received the assignment within an hour of Dr. Conrad's report to Dr. Hayes on the morning of October 18th. He and a colleague named Tiyo Yamaguchi were at the Cordoba house within an hour.

"We spent the rest of the day out there," Mr. Bergstrom says. "There and around the neighborhood. Mrs. Cordoba told us about the spraying operation near the bus stop. We followed that up and confirmed what she had learned herself. It was a standard cotton-defoliation spray—magnesium chloride and dinitrose. We went through the Cordoba house and the garage out back looking for anything in the way of a garden spray or insect bomb that might include an organic phosphate. Nothing. We examined the family car. Nothing. That left Billy's clothes, and Mrs. Cordoba showed us his blue jeans. She told us about them. They had been bought new about a month before at the salvage depot of the Valley Motor Lines. They were cheap, and she bought five pairs. But Billy had worn only one pair. And he had worn them only twice—to school that day and then to Dr. Conrad's office. I looked at Yamaguchi and he looked at me. We knew we had found what we were looking for. It had only to be proved. We wrapped up the jeans—all five pairs—for laboratory analysis. The Bureau of Vector Control of the California State Department of Public Health has a research station here, and we took the jeans over there the next morning. The first thing we wanted to know was whether they were contaminated. The Bureau had a quick and easy test for that. They breed mosquitoes at the station for experimental purposes, and they simply tossed the worn pair of jeans in with one of the colonies. I tell you, it was a sight to see. Those mosquitoes just curled up and died. It took only fifteen minutes. At the end of that time, every mosquito in the colony was dead. Not only that. There was another breeding colony about twenty feet away, and in about five more minutes all *those* mosquitoes were dead, too. The poison was that volatile.

"The next thing we wanted to know was the identity of the poison. We thought it was an organic phosphate, but was it? There is a color-reaction test that reveals the presence of phosphate. It takes a little longer than the mosquito test, but the Bureau had the chemistry to do it. We left the jeans with them to work on, and drove back into town and down to the office of the Valley Motor Lines. It wasn't a very satisfactory visit. About all we learned was that there had been a sale of blue pants at their salvage depot in September, and that all the jeans had been sold. They supposed the jeans had been damaged, but they didn't know in what way. They didn't know where the jeans had come from. They didn't know the number of jeans in the batch. All company records were stored at their main office, in Montebello, down in Los Angeles County. And, of course, they had no idea who had bought the jeans at the sale. We left them with the understanding that they would recover the relevant records. When we got back to the office, I called our friends at the Bureau of Vector Control. They were a lot more helpful. They had run the color-reaction test, and they had the result. It was positive for phosphate.

"That wasn't any great surprise, of course, but it was crucial. It established that Billy's blue jeans were in fact the source of his phosphate poisoning. All we needed to establish now was the source of the poison. And not just where it came from but also what it was. There are at least twenty-five commercial phosphate pesticides in common use. Like Parathion, for example. And Malathion. And Fenthion and Phosdrin and Diazinon and Dicapthan and Trithion and TEPP. And so on. So it might be easier to find out where it come from if we knew what particular phosphate pesticide we were looking for. Well, that kind of information can be got. It takes a little time, but it's possible by certain tests to identify an unknown phosphate pesticide. The Bureau couldn't do the analysis, but they knew who could—the Division of Chemistry of the California State Department of Agriculture, up in Sacramento. They said they would make the necessary arrangements. We should have a report in a week or ten days. The following day, we looked in at the Valley Motor Lines again. They still hadn't recovered the blue-jeans records. And the day after that it was the same. Apparently, it wasn't easy to get records out of Montebello, And then we heard about Johnny Morales. Dr. Conrad must have telephoned the news to Dr. Hayes. At any rate, we had the simple facts by the morning of October 25th. We went over to the hospital—it's just across the street—and talked to Dr. Warren and to Mrs. Morales, and finally to Johnny himself. Johnny was still pitifully sick, but he had been treated in time with atropine and PAM, and he was off the critical list. His story was Billy Cordoba's story all over again. There was a new pair of blue jeans. They came, like Billy's from the Valley Motor Lines' salvage depot. They carried the J. C. Penney label. So did Billy's. And, as we very soon found out, they were also heavily contaminated with an organic phosphate. Johnny had worn the jeans for the first time on October 20th. He wore them to school that day and got sick around midmorning and was sent home. His mother put him to bed, and in a few days he was well. Then he put on his jeans again and went back to school, and ended up at Fresno General Hospital.

"Johnny's new jeans brought the total accounted for up to six. Mrs. Morales had bought only one pair. We still didn't know how many jeans had been sold in the sale, but it was certain that there were more than that. Dr. Hayes got in touch with all the local media. She called in the *Bee* and radio station KMJ and KMJ–TV, and it was all in the paper and on the air that evening, with a warning about the still unaccounted-for jeans and an appeal to the buyers to bring them in to the County Health Department for examination. The response was immediate, and good. As a matter of fact—although we didn't know it for a couple of weeks or more—it was one hundred per cent. We received a total of ten pairs of J.C. Penney jeans from six different buyers. They represented five families and an institution for children. We checked them out for recent illness and found four cases with much the same clinical picture. Four boys, in four of the five families. They were all recovered now, and they had all been differently diagnosed. Brain tumor was one diagnosis. Another was bulbar polio. One of the others was encephalitis. In retrospect, however, the signs and symptoms were unmistakably those of organic-phosphate poisoning, and when their jeans were tested, that confirmed it. But it was also a little peculiar. Not because they all recovered without specific treatment. That could be explained by light contamination or brief exposure, or both. The peculiar thing was that only those four got sick. What about the fifth family and the institution? They had each bought two pairs of jeans, and the jeans had been worn, but none of the boys who wore them had been even mildly ill. As I say, it seemed a little peculiar—until it turned out that those jeans were not contaminated. And the reason they were not contaminated was that they had been washed. And the reason nobody got sick was that they had been washed before they were worn. Billy and Johnny and the four other boys had worn their jeans the way most kids do. Just as they came from the store."

The transformation of Billy Cordoba's solitary seizure of organic-phosphate poisoning into a looming epidemic also changed the stature of the investigation. It was now imperative that the records of the Fresno blue-jeans sale be recovered from the Montebello office of the Valley Motor Lines, but doing so appeared to be beyond the strength of the Fresno County Public Health Department. Its exhortations did not carry across the state and into Los Angeles County. What was needed was the stronger voice of the California Department of Public Health. Accordingly, on October 26th Dr. Hayes invited that agency to take over the direction of the larger investigation, and her invitation was accepted. It was, however, immediately obvious to the Department of Public Health that in this instance the interrogational powers of a more specialized state agency would be even more compelling. That agency, whose assistance it sought and at once received, was the Public Utilities Commission,

which at that time was charged with enforcing motor-carrier safety regulations.

The Public Utilities Commission's investigation was carried out by members of its Operations and Safety Section. They began their inquiry on October 27th. Six days later—on Thursday, November 2nd—they were pleased to receive from the Division of Chemistry of the Department of Agriculture (by the way of the Bureau of Vector Control of the Department of Public Health) the ultimate test reports on Billy Cordoba's blue jeans. It read, "The stained portion of the jeans contained Phosdrin, 4.8% by weight. The contaminant was specifically identified as Phosdrin by its characteristic infra-red absorption curve. . . ." This was useful information. They now were looking for a particular pesticide. That would make a difference in their progress through the labyrinth of bills of lading, manifests, and invoices. It remained only to link the contaminated J. C. Penney jeans in time and place with a quantity of Phosdrin.

They did so in just two weeks. The chain of circumstances that led to the poisoning of Billy Cordoba and the others had had its innocent beginning some eight months before at Bayly Manufacturing Company, in the nearby town of Sanger. On February 3, 1961, a shipment of Bayly blue jeans—two large bales and a carton—consigned to a J. C. Penney store in Los Angeles was picked up at the Bayly plant by the Triangle Transfer Company, a Sanger trucking firm, and taken to the Fresno terminal of the Valley Motor Lines for transshipment south. Within an hour or two of its arrival in Fresno, the shipment was loaded abroad a Valley Lines trailer with a conglomeration of other freight. This freight consisted of machinery, machine parts, metal pumps, and a hundred and twenty gallons of emulsifiable concentrate of Phosdrin, in one-gallon and five-gallon cans. The Phosdrin was the product of De Pester Western, Inc., a Fresno manufacturer, and was consigned to the Valley Chemical Company, at El Centro, down on the Mexican border.

The Valley Lines trailer left Fresno the following morning with the miscellaneous load, and that evening it reached the company terminal at Montebello, where the Phosdrin was unloaded for transshipment. Two days later, on February 6th, it was put on board a truck operated by the Imperial Truck Lines, a Los Angeles firm, for the final leg of its journey. The Imperial driver made the usual precautionary inspection of his load before signing the delivery receipt, and found that one of the Phosdrin cans had sprung a leak. He traced the leak to a little puncture about three inches below the top of a five-gallon can. After some discussion, he signed the delivery receipt, but noted a formal exception to the shipment on the ground that around a gallon of Phosdrin concentrate had been lost from the punctured can. (How the puncture occurred was never determined, but the loss was estimated in a subsequent claim by the Valley Chemical Company at one and one-eighth gallons, valued at twenty-four dollars and fifty cents.)

Meanwhile, the shipment of blue jeans was delivered that same day by the original Valley Lines trailer to a J. C. Penney store in the Los Angeles suburb of Westchester. A shipping clerk there noticed a dark stain on the paper wrapping of one of the bales of jeans. He asked the driver about it, but the driver didn't know. He had never seen it before. The clerk went in and brought out the manager, and the manager told the Valley Lines driver that a damage claim would be filed if any of the jeans turned out to be soiled. Sixteen pairs of jeans were found to be stained with some unknown oily substance, and a claim for damages was filed on February 8th. The claim was acknowledged by the Valley Motor Lines, and the sixteen pairs of jeans were stored in the J. C. Penney warehouse for pickup by the Valley Lines. They remained there all spring and all summer—until September 6th. Then they were finally picked up and returned to Fresno. On September 19th, they were put on cut-rate sale at the company's salvage-depot store. The jeans by then apparently looked all right. They might also by then have been as safe as they looked. It is possible. Seven months of storage in a warehouse subject to swings of heat and cold and damp and dry might well have caused much of the Phosdrin to volatilize and vanish. But the J. C. Penney warehouse was a new and modern warehouse. It was air-conditioned.

The Public Utilities Commission's report of these findings to the State Department of Public Health ended on a reassuring note. It concluded, "The staff's investigation of the personnel records and waybills of the two carriers involved failed to disclose any evidence of employee illnesses on the days in question or subsequent thereto, and failed to disclose any evidence that foodstuffs or other personal effects, including clothing, had been contaminated."

The Commission's report was not, however, the end of its interest in the matter. It at once instituted an investigation into the general operations, safety practices, equipment, and facilities of the Valley Motor Lines and the Imperial Truck Lines, and on February 14, 1962, a public hearing on the results of that investigation was held at Fresno. Both companies were found guilty of carelessness, and admonished and fined. The Valley Lines was fined five thousand dollars—the maximum penalty—and the Imperial Lines was fined twenty-five hundred dollars.

A DEMOCRATIC PARTY STATE OF THE UNION PROGRAM

Mr. SCOTT. Mr. President, I was privileged to hear the state of the Union program put on yesterday by our friends in the Democratic Party. And I was proud of them, for, though Democrats, most of the points they made had a distinctly Republican flavor. We heard them talking, for instance, about the high cost of living and high interest rates—all brought about by 8 years of Democratic mismanagement.

We heard them talk about the high cost of defense, which went up and up and up under the costly cost-effectiveness programs of Robert McNamara, and which is coming down under a Republican President and a Republican Secretary of Defense. We heard them talk about pollution, virtually ignored under 8 years of Democratic administration, but one of President Nixon's highest priorities. We heard them talk about the poor and the hungry. I recall their talking about the poor and the hungry also in 1960 and 1964 and 1968. I do not recall that their trickle-down, topheavy programs worked very well. We have had much talk in the last 8 years and a lot of money spent on wasteful and ineffective programs. Now a Republican President is working on new approaches and sensible programs, I am looking forward to seeing how well a Democrat-controlled Congress cooperates.

We heard them talk about crime in the streets, but it is the mollycoddling of criminals by law enforcement officials that is at least partly responsible for the rise in violent crime, and it is the Democrats' failure to pass President Nixon's crime package that has hampered the war against crime in the last year. And we heard them complain about the President's refusal to spend money on poorly planned, porkbarrel education programs that snowballed without reason in the 1960's. But they did not point out that $40 billion in tax moneys and another $16 billion in nontax moneys is spent on education in these United States annually.

Finally, we heard them talk about how they are acting responsibly in the field of Federal spending. I congratulate them on that. It is about time. The horse is nearly out of the barn.

But I must admit that the program was a bit confusing overall. Our Democratic friends seem unable to separate the problems of the city from the county, the county from the State, and the State from the Federal Government. Nor are they able to separate the ineffectiveness and lack of vision of yesterday's Democrat administrations and Democrat Congresses from the concerns and programs of today's Republican administration and Republican Members of Congress.

Their state of the Union message, in sum, is an itemization of their own failures and the inadequacies of their own answers.

Confession, apparently, is good for the soul of the entire Democratic Party.

Mr. President, this is the first time a petition in bankruptcy was ever filed in living color.

NOMINATION OF JUDGE CARSWELL

Mr. MONDALE. Mr. President, on January 30, I announced my opposition to Judge Carswell's nomination. Any remaining doubts I might have had about my inability to vote for Judge Carswell would have been dispelled by testimony in the last few days of the Judiciary Committee hearings on the nomination.

The evidence that civil rights litigants repeatedly were denied a fair hearing in Judge Carswell's court has already received wide attention. The distinguished Senator from Massachusetts (Mr. KENNEDY) has placed some of this testimony in the RECORD. These facts are there and speak loudly for themselves.

The testimony to which I refer confirms the second main defect of this nomination: the nominee's utter lack of distinction—as a lawyer or judge. An appointee to the Supreme Court must be a man of significant stature at the bar or bench. Judge Carswell is not.

His proponents cannot confuse the issue. It is not a matter of scholastic pedigree. Nor are voluminous scholarly writings a prerequisite. The history of the Court and its great Judges makes this clear. The question is simply this: Has Judge Carswell, whom a distinguished student of the Supreme Court found the least qualified nominee in this century, demonstrated one iota of distinction beyond the ordinary? Has Judge Carswell shown any measure of outstanding legal ability or judicial temperament worthy of the Supreme Court. Sadly, he has not.

Most telling of all, perhaps, was the testimony of a distinguished professor of constitutional law who not only supported Judge Haynsworth but who testified on Judge Haynsworth's behalf. He

concluded that Judge Carswell's record contrasted poorly with Judge Haynsworth's as to judicial ability and legal competence and fell far short of the mark to be set for our Highest Court.

Mr. President, so that Senators may have the opportunity to review their remarks, I ask unanimous consent that the testimony of Prof. Van Alstyne, of Duke University Law School, and Dean Louis Pollak, of Yale Law School, be printed in the RECORD.

There being no objection, the testimoney was ordered to be printed in the RECORD, as follows:

TESTIMONY OF PROF. WILLIAM VAN ALSTYNE
DUKE UNIVERSITY LAW SCHOOL

Mr. VAN ALSTYNE. Thank you, Mr. Chairman, Senator Bayh.

My name is William Van Alstyne, and I am a Professor of Law at Duke University where I have taught constitutional law and related seminars on the Supreme Court since 1965. Prior to that time, I was Professor of Law at Ohio State University where I taught courses in constitutional law from 1959 to 1964. I have also been a visiting professor at Stanford University Law School, U.C.L.A. Law School, the University of Denver Law Center, the University of Mississippi, and a Senior Fellow at the Yale Law School.

I have written approximately thirty articles in the field of constitutional law published in various professional journals including the Harvard, Yale, Stanford, and Michigan Law Reviews. A member of the Supreme Court Bar and admitted to practice in California, I have participated in constitutional litigation in the United States Supreme Court and the federal district courts and court of appeals for the fourth judicial circuit, either as an amicus curiae or as assigned counsel on contested issues of constitutional law.

Prior to entering academic life in 1959, I served in an Attorney honors program in the Civil Rights Division of the United States Department of Justice, following a brief period of service as a Deputy Attorney General for the State of California. My academic degrees are from Stanford University (LL.B. 1958, Order of the Coif, Articles Editor of Law Review) and the University of Southern California (B.A. 1955, philosophy, magna cum laude).

I mention these matters because I too am a volunteer in these hearings, and have no pretension about my own prestige, and have tried to establish in an appropriate fashion at least some professional basis for appearing before you this afternoon.

I have in addition previously served as Consultant to the Senate Subcommittee on Separation of Powers, under Senator Ervin, and I am currently General Counsel to the American Association of University Professors and a member of the Board of Directors of the North Carolina Civil Liberties Union, an affiliate of the A.C.L.U.

This afternoon, however, I appear purely in a personal capacity. A short time ago, as you gentlemen recall, this committee was asked to report to the Senate its recommendations as to whether the Senate should consent to the nomination of Judge Clement Haynsworth as Associate Justice of the Supreme Court. At that time, I felt some obligation to file a Statement because of a professional familiarity with Judge Haynsworth's judicial record which I believe might be of assistance to the Senate. I was prompted to appear as well because of a substantial belief, formed only after a review of Judge Haynsworth's Opinions and decisions.

During 12 years on the Court of Appeals that the extent of the criticism then being made by others was not in fact justified. While it was not possible to review and to report on any large number of Judge Haynsworth's decisions in my field statement, I did attempt to examine a sufficient number fairly to reflect in my Statement what I believed to be of principal interest to this Committee and to the Senate.

On that basis, I concluded that Judge Haynsworth was an able and conscientious judge, that his decisions manifested a greater degree of judicial compassion within the allowable constraints of proper discretion than others had taken the care to acknowledge, and that even in instances where I could not personally find agreement private or professional with a particular result, I could nonetheless see from the quality of the opinion that that result had been arrived at with reassuring care and reason.

In the little time available prior to this hearing, I have sought to review Judge Carswell's work in an equivalent fashion. My impressions are sharply different from those I held of Judge Haynsworth, however, even without regard to additional circumstances, which have made this an extraordinary case.

Reference has been made to an earlier published statement by Judge Carswell in 1948. I would agree with those who believe that unless that statement can be significantly discounted by clear and reassuring events since that time, 20 years ago, it would be uniquely inappropriate for the Senate to consent to his nomination as an Associate Justice of the Supreme Court. But an examination of his decisions and opinions as a district judge since that time, even laying his earlier statement entirely aside, provides no feeling for a basis of reassurance whatever.

Again, without beginning to exhaust all that might be mentioned in this regard, a brief review of several particular cases may illustrate the lack of any reassuring quality in the opinions or result, with regard to this controversial matter.

Particularly in the case of Due v. Tallahassee Theatres, Inc., for instance, several Negro plaintiffs sued to enjoin an alleged conspiracy by the local sheriff and others to perpetuate segregation in public facilities by means of harassment and discriminatory law enforcement against blacks.

The decision by Judge Carswell granting summary judgment in favor of the sheriff without a hearing was reversed in the court of appeals on grounds that it was "clearly in error," that the allegations readily supported a cause of action under various civil rights acts and pre-existing Supreme Court decisions, and that a hearing should have been held.

In Singleton v. Board of Commissioners of State Institutions, suit was brought by four Negro children sent to a segregated institution after conviction for participation in a sit-in, to enjoin that segregation and to have the state statute requiring such segregation declared unconstitutional. The suit was dismissed as allegedly being moot by Judge Carswell, but the court of appeals reversed in an Opinion further indicating that relief on the merits should have been granted to the plaintiffs.

In Dawkins v. Green, Negro plaintiffs sought to enjoin police and municipal officers from seeking to enforce certain statutes on a discriminatory basis to intimidate and harass Negroes, and to prevent them from exercising certain constitutional rights.

Without holding any hearing to provide the plaintiffs an opportunity to establish that the officials were in fact acting maliciously and in bad faith, Judge Carswell granted summary judgment against the plaintiffs based only on conclusory affidavits submitted by the officers.

Again the court of appeals reversed, holding that this peremptory use of summary judgment was in error, and remanding the case for a hearing on the merits.

In Steele v. Board of Public Instruction, Judge Carswell accepted an extremely grudging desegregation plan submitted by the county in 1963 and approved its continuing operation in 1965, to be reversed by the court of appeals on the basis that the plan was constitutionally inadequate.

In Augustus v. Board of Public Instruction of Escambia County, suit was brought on behalf of Negro children to enjoin segregation in the county schools and racial assignment of the teachers. Judge Carswell's Opinion manifested a severely restricted interpretation of the Supreme Court's Opinion in Brown v. Board of Education, concluding that it applied only to the segregation of children, not the teachers, finding no basis at all for the proposition that the racial assignment of teachers may also violate equal protection owing the students, and he denied them an opportunity to establish that systematic racial assignment of teachers may obviously bear on the quality of the student's own education.

In reversing, the court of appeals held that it was error not to allow the plaintiffs an opportunity to show to what extent they may be injured by racial segregation of teachers.

Let me interrupt my prepared statement at this point to point out that when the identical issue came before Judge Haynsworth he as the Fifth Circuit judge of course recognized that the students were in a suitable position to contest that issue and granted full relief on the merits.

In a companion case brought before Federal district court Judge Simpson in the middle district of Florida on the same issue Judge Simpson also recognized that that was the point.

In short, gentlemen, Judge Carswell's opinion on this issue stands unique as a severe and restrictive and subsequently reversed interpretation on a principal point of constitutional law.

Senator BAYH. To put this in proper perspective, since we are talking about the fourth and fifth circuits on this case you say Judge Carswell exactly contrary to what another Federal district judge in Florida held, and contrary to the fourth circuit?

Mr. ALSTYNE. That is correct.

Senator BAYH. And the interesting thing, am I correct in saying, that the cases that you have cited, four, are cases that he held while he was district court judge and they were subsequently reversed not by the Supreme Court but by the Court of Appeals?

Mr. ALSTYNE. That is correct. It is correct also of course that there are several cases in which relief was not denied to plaintiffs suffering injury from unlawful racial discrimination (see, e.g., Brooks v. City of Tallahassee, 202 F. Supp. 56 N.D. Fla. 1961, Pinkney v. Meloy, 241 F. Supp. 933 N.D. Fla. 1956). They have been repeatedly mentioned here, see the Air Terminal and Barber Shop cases.

Senator BAYH. Are there others that have come to your attention?

Mr. ALSTYNE. Respectfully, Senator, those were the only two that I was able to find in 72 hours of research. It is also possible that opinions were overlooked in that these cases are nowhere indexed by judges named.

Senator BAYH. If you find others, I do not speak for the whole committee, I would hope you would bring those to our attention as well.

Mr. ALSTYNE. I would wish to do so in any case from a private sense of responsibility to this committee. Respectfully however, while relief was not denied in these cases, it was only in circumstances where heavily settled higher court decisions and incontestably clear acts of Congress virtually compelled the result, leaving clearly no leeway for judicial discretion to operate in any other direction.

I would respectfully invite the committee's particular attention to the particular opinion to establish that conclusion.

More disturbing in the cases generally and by generally I mean not to restrict myself to the area of race relations at all, although intrinsically far more difficult to illustrate in the nature of the shortcoming, there is simply a lack of reasoning, care, or judicial sensitivity overall, in the nominee's Opinions.

There is, in candor, nothing in the quality of the nominee's work to warrant any expectation whatever that he could serve with distinction on the Supreme Court of the United States.

It is, moreover, in this context and on the basis of this subsequent record that the Senate must resolve fair doubts in assessing the significance of an acknowledged statement made by the nominee under public circumstances, as a mature man of twenty-eight years, with a graduate education in the law and experience in business affairs, now to be considered for the highest judicial office in the United States. This is not the time, in this public room, for any of us to weigh these words for all their impact. Rather, it is for each of you to go to some private place, to read these words again, slowly and aloud, listening again, then to decide the future of the Supreme Court and the advice of the Senate:

"I yield to no man, as a fellow candidate or as a fellow citizen, in the firm vigorous belief in the principles of white supremacy and I shall always be so governed." (G. Harrold Carswell)

Senator THURMOND. Any questions, Senator Bayh?

Senator BAYH. This is from one Senator's standpoint a damning piece of testimony, offering the judge's——

Mr. ALSTYNE. Senator, I have not come here to damn Judge Carswell. I do not know him personally.

Senator BAYH. Perhaps I should use another word than damning.

Mr. ALSTYNE. No, but I merely wish to volunteer this observation if I could. It was really after a great deal of personal agonizing that I decided to appear at all. I was concerned, however, that with the relative brevity of time for others to make some systematic and professionally responsible review of the judge's decision there might be no one else who could attempt to advise members of this committee in terms of your own question, Senator, whether there were reassuring events in this 20-year hiatus of time, so that one could honorably, as I should want to do as well, wholly dismiss and discount the utterance of 1948.

Senator BAYH. I want to tell you, Professor, I have been searching for those. I have been hoping that we can find them. You were attorney general, assistant attorney general in the Civil Rights Division of the Justice Department. At what time?

Mr. ALSTYNE. In the year 1958–1959.

Senator BAYH. That was during the Eisenhower administration?

Mr. ALSTYNE. It was.

Senator BAYH. Deputy attorney general in the State of California?

Mr. ALSTYNE. Yes, sir.

Senator BAYH. A member of the Bar?

Mr. ALSTYNE. Yes, sir.

Senator BAYH. Magna cum laude from the University of Southern California. Those are pretty impressive credentials, and I would assume that those credentials plus your sincerity indicates very well you do not take the analysis that you have given us lightly.

Mr. ALSTYNE. Not at all.

Senator BAYH. May I ask just one question, the same question that I asked of a previous witness. Do you make a specific comparison between the Hugo Black example and the Judge Carswell example?

Mr. ALSTYNE. I can and I think it is in three dimensions rather than two. I agree with Professor Orfield and his distinctions and would want to add additional observations about reassuring events, aside from his nominal affiliation with the Klan.

As county prosecutor of Bessemer County in Alabama, Hugo Black prosecuted the mayor and chief of police for extorting confessions from Negroes. That is a reassuring event in my mind. As a United States Senator, he had ample opportunity to take a political position under very public circumstances on a variety of constitutional and civil liberties issues. In one case, for instance, he voted against the Smoot-Hawley tariff, a very complicated bill, and primarily on the basis that it gave a certain power to one of the customs masters to screen out certain forms of writing from the United States, that is to say his was the first amendment objection.

This matter was carefully reviewed by people of politically liberal persuasion at the time, and they did find a repeated series of reassuring events at this time, so as to indicate that at the very worst then Hugo Black's affiliation with the KKK was one of convenience, given their overwhelming political control of the area, but neither by public utterance nor by private conduct nor by subsequent participation in the United States Senate or otherwise in public or private life was there lacking the presence of reassuring events or any presence of things more detrimental.

There is, however, a different distinction as well, Senator. 1948 is not 1933. The race issue was not a major issue in 1933. The affiliation of convenience may not speak particularly well of a man, but it is by no means as serious a matter as it was in 1948. Civil rights legislation was before Congress. That was after all the context of the political controversy.

The President had just desegregated the military in which Mr. Carswell himself had been matured in part. The Nation had just then read President Truman's special report "to secure these rights." The issue was now central, the occasion to reflect was far better provided than in 1933. We also have to look at the situation in terms of distinction in point of time.

When Senator Black was before this form of committee for confirmation on the Supreme Court and the relative unimportance although I say that with regret, the relative unimportance publicly of the race issue, and the posture of the Supreme Court, and the difference in quality today.

If the Warren Report will be historically a monument, it will probably be principally because it at least gave that initial push to the momentum of concern in the United States dating from 1954. There has been in my view a unique and admirable unanimity on this crucial question since that time.

I can think of no more regrettable insult to the Warren Report, unless the committee is virtually reassured that this was merely a forgivable incident, and can find those reassuring events. In the absence of that kind of evidence I tell you in all respect that it will be a major insult to the legacy of the Warren Report if this nomination is confirmed.

I find no similar situation under the circumstances of the confirmation of Senator Black.

Senator BAYH. Thank you. I have no further questions.

I would like to point out that I am sure that this has been no little inconvenience to you, Professor, and I am grateful.

Mr. ALSTYNE. I appreciate the opportunity very much.

Senator BAYH. Let me just make one observation. This is particularly revealing to me because we did not see eye to eye on the previous nominee. I was struggling with a different subject on that, but you have obviously given this a great deal of attention.

Senator THURMOND. The Senator from Indiana did not listen to your testimony in the Haynsworth case but it seems he is very interested this time.

Senator BAYH. Neither did the Senator from South Carolina prove his consistency, and I imagine the record will show that.

Senator THURMOND. It looks like the professor is going to lose both times.

Mr. ALSTYNE. Well, with regard to Senator Bayh's predicament at least I am reminded of a recollection of Justice Frankfurter who said that it is so seldom that wisdom ever comes. We ought not to be reluctant, though it comes late.

Senator THURMOND. Thank you again.

TESTIMONY OF LOUIS H. POLLAK

Mr. POLLAK. Mr. Chairman, my name is Louis Pollak. I very much appreciate the opportunity extended to me to speak with respect to the nomination of Judge Carswell. I am a lawyer a member of the Bars of Connecticut and New York, and of the Supreme Court. I have been for the past almost 15 years a teacher of law at Yale and for the last four years I have been Dean of that law school. I am a member of the Board of Directors of the NAACP Legal Defense Fund, which reflects my long-standing interest in constitutional law and particularly the constitutional law which relates to the protection of equal rights, and I am a member in addition to being a member of other bar associations, I am Chairman Elect of the Section of Individual Rights and Responsibilities of the American Bar Association.

But my appearance here I must of course emphasize is entirely individual. I speak for no organization at all, nor do I speak for the school with which I have the privilege of being associated. This is an entirely personal presentation, and it is a personal presentation which arose out of my own professional concern and citizen concern for the development of our constitutional law under the aegis of that extraordinary innovation in government which is the United States Supreme Court.

When the President nominates and the Senate confirms an Associate Justice of the United States Supreme Court, it does an awesome thing. The President and the Senate in combination are entrusting a fair measure of the Nation's future to the man or woman, one can hope that in due course it may be a woman, who sits on that court and participates in the shaping of our fundamental institutions. And so the question I urge upon this committee, the question before this committee and ultimately before the United States Senate, with respect to every nominee for the highest court in our land is inescapably in the last analysis is the nominee a lawyer qualified on giving promise of being qualified to sit on the bench on which Mr. Justice Black now sits, on which Frankfurter and Warren sat, on which Hughes and Holmes and Brandeis sat, Field and Miller and Taney and Marshall. That is the question which must be asked with respect to a nominee for the highest court in the land.

When I first learned of the nomination of Judge Carswell, I must confess some astonishment that a lower court judge, who after a period on the District Court of some years and so very brief a passage through the Court of Appeals, was now to be placed on the United States Supreme Court, was a course of elevation that I had to think back some time to find an analogy for, and the only analogy in our recent judicial history was the not very encouraging one, and I say this with regret, of Mr. Justice Whittaker, whose passage through the Court of Appeals was equally brief and whose stay on on the United States Supreme Court was disappointing. But with deference to Mr. Justice Whittaker, it must be said that he was a nominee who before he went on the federal bench at all had distinguished himself greatly at the Bar, as he is now again leader of the active bar.

With respect to Judge Carswell, from what

little I knew of him at hearsay and from the press, there was no such background of demonstrated achievement whatsoever. One gathered from the newspapers, of course, that he had given a speech, a deeply deplorable speech which he now regretted, but there was nothing in the record that suggested that here was a lawyer and judge whose light had been hidden under a bushel not of his own devising.

My concern at the nomination, for I felt maybe it was simply that I knew too little about him, was greatly heightened last week, Mr. Chairman, in reading press accounts of the testimony of scholars who happened to be men whom I know, and know well, and for whom I have the highest regard, who seemed to know at first hand, and from their acquaintance with the judge's work, that indeed the record was a very limited one; that indeed, as has been suggested by the testimony of Mr. Harris just before me, of Congressman Conyers before, that here was a nomination which was far more easily explained not on the basis of professional excellence but on the ground that here was a nominee who was a Republican and a Southerner, and a Republican and a Southerner marked in his judicial career by lukewarmness at best on the fundamental issues of Civil Rights.

I believe Mr. Fred Graham of the New York Times has put it that the judge's opinions are marked by a lack of zeal with respect to Civil Rights.

Now I urge upon the committee that I in no way object to a President giving weight in the selection of a judicial nominee to geographic and indeed political considerations, but one should add a Republican and a Southerner to the Court by itself seems to me a continuity with what is certainly in our regular tradition of judicial appointment, and it is the kind of criterion of diversity geographical and philosophic which strengthens the Court when rightly applied, that is to say when rightly applied in the direction of appointing a man who at a minimum presents the highest professional qualifications and the kind of promise of performance on the highest court suggested by the ringing roster of those who have been the leaders of that Court.

But when one adds to the criterion of Republicanism and Southernism the criterion of lukewarmness on the greatest issue confronting our nation and perhaps our world today, failure to meet which forthrightly has caused what are perhaps our most perplexing and profoundly disturbing problems, then it seems to me we have to take a second look.

It was at this point that the profound professional concerns of Professor Van Alstyne, Professor Lowenthal, what I had heard of Professor Clark's views led me to feel that, arrogant as perhaps this seems, I wanted to come before this committee and express my deep concern. But also I felt that I owed it to this committee to make what assessment I could, in a very limited time, namely over this weekend, of as much of the judge's work as I could, and I have read for many hours some four or five years of the judge's cases on the District Court running from '69 back to '65, to get a sense of the general flow of the cases he decides, not alone those in the highly controversial areas of Civil Rights, and the related areas of habeas corpus to which some attention has been paid at great length, and properly so before this committee.

I would report to you that on a canvass of the opinions which I have had the opportunity to read, and I don't begin to suggest that I have read the entire range of his work or indeed his opinions on the Court of Appeals, there is nothing in these opinions that suggests more than at very best a level of modest competence, no more than that, and I am talking now about the general run of contract, of tort, of federal jurisdiction, of tax cases, the run of cases which a District Judge has before him. I will have a special word in a moment for the particular areas of judicial concern to which so much testimony has been given.

One element which concerned me as I read his opinions was a repeated use of dispositive techniques which avoided hearings. The motion for summary judgment granted, the striking of the pleading—these are techniques which properly used can be extremely helpful in terms of economy of judicial time. But where overused quite obviously they have the effect of frustrating the litigation, the actual litigation with live witnesses of real issue.

And then I saw the same theme emerging in the Civil Rights cases and in the habeas corpus cases to which considerable attention has been paid.

The Tallahassee Theater case, for example, which Judge Carswell found presented a wholly inadequate complaint, one not worth pursuing to litigation, only to be reversed by the Court of Appeals for the Fifth Circuit, found it almost a classic statement of a conspiracy to deprive plaintiffs of their constitutional rights.

In the field of habeas corpus not much has been said about this, but it happens to be an area of special professional interest to me, I was particularly struck by failures there by District Judge Carswell to hold hearings in the face of allegations which plainly so it seemed to me would, if substantiated, constitute denials of fundamental principles of due process of law.

I make this point particularly in the light of an admonition, a very important admonition which Senator Hruska put to us earlier today I think, that in judging a judge, one must in fairness judge him in the light of the law as it stood at the time he decided, not in the light of our later, more comprehensive notion of what the law should have been and later became.

In the light of that standard, what the law was at the time the cases were before it, I submit there is very little way of explaining Judge Carswell's successive decision in two habeas corpus cases, the Dickie case in which there was a reversal in 345 Fed 2d 508, and Baker vs. Wainwright, again a reversal at 391 Fed 2d 248. Both of these cases, though I have characterized them as habeas corpus cases, to be more precise they were applications by federal prisoners under Section 2255 of the United States Code for release from custody on the ground that they had not had counsel. I misspoke myself, if I may, Mr. Chairman, with the first citation. It should have been the Meadows case 282 Fed 2d 942 and the Dickie case 345 Fed 2d 508.

These two cases were virtually identical. In both cases a federal prisoner alleged that he had pleaded guilty to a federal information, and waived counsel at a time when he was mentally incapacitated. In the Meadows case Judge Carswell dismissed the application without a hearing. He was reversed by the Court of Appeals of the Fifth Circuit in 1960, 282 Fed 2d 942.

In the Dickie case, virtually the same application was made to him by another federal prisoner. Again, and years had passed. Judge Carswell denied the application without a hearing and the Fifth Circuit reversed five years later, 345 Fed 2d 508.

I put those cases to the committee in the very terms in which Senator Hruska asked us to consider the Judge's handwork. How did he deal with the problem in which he knew the existing law because the existing law had been made for his circuit by reversal of his own prior decision. Comparable cases which I find of particular difficulty are Baker and Wainwright to which I referred, 391 Fed 2d, Brown vs. Wainwright in 394 Fed 2d. These were cases involving, the first of them involving lack of counsel on appeal of a state court conviction. No hearing was held by Judge Carswell, notwithstanding the fact that the United States Supreme Court had years before, as the Fifth Circuit pointed out, said repeatedly this was a constitutional requirement.

Brown against Wainright was a confession case testing the voluntariness of a confession. Harris vs. Wainright at 399 Fed 2d raised questions of the competence of the applicant to stand trial and whether indeed he had been sane at the time of the alleged offense. In none of these cases did Judge Carswell hold a hearing. Each time he was reversed by the Court of Appeals and a hearing directed.

If the committee please, these are cases perhaps more modest in dimension than the Civil Rights cases to which much attention has properly been given. The constituents of habeas corpus cases are not people of influence. They are many of them ignoble, unworthy by the ordinary standards of our market. But they are people to whom our Constitution owes vindications of its principles. It is only if the rights of the worst of us are protected, the New York Court of Appeals pointed out in the Gitlow case almost half a century ago, that the rights of the best of us will survive.

And in these instances, a district judge so it seemed to me was failing to follow clear mandates of the court above him in failing to explore applications plainly alleging serious constitutional deprivations.

Before I leave these cases, if I may I would like to say a word hopefully to clear up a problem which seemed to me to obscure much of this morning's discussion with respect to removal procedures. I gather it was the thrust of Senator Hruska's questions that in his understanding a district judge had to approve a removal application. With all deference I think that is not the case. Removal under the Federal System is an automatic process. Removal is effectuated when the lawyer files the paper of removal. There is nothing the district judge has to do at that stage of the litigation. The district judges offers with respect to removal comes only if there is an application to remand the case to the State court, and the issue so much discussed this morning of the procedure followed in one of the cases about which Mr. Lowenthal testified, the issue is not I submit settled by Senator Hruska's observation that the Fifth Circuit's Peacock and Rachel decisions were later overturned by the United States Supreme Court.

If one were following out that problem as to whether removal were proper in the case described by Mr. Lowenthal, that is to say whether a district judge should have remanded those cases, if one were pursuing that legal issue, one would be exploring a very subtle problem, and I don't offer you any firm judgment on the result one way or another, but a very subtle problem as to whether the case which Mr. Lowenthal was seeking to keep in the federal court was closer akin to the Rachel case than the Peacock case, two cases decided by the Supreme court of the United States at the same time.

A plausible argument certainly could have been made that this was of the Rachel variety. But I think the critical point, the critical point if I understand the concerns which Mr. Lowenthal and those associated with him have, was that Judge Carswell with respect to that very difficult problem, even more difficult perhaps at the time because the Supreme Court had not yet thrown light on the area, that Judge Carswell, when there was no application for remand before him, remanded the cases on his own motion and without a hearing, and at a minimum the issues tendered by a properly filed remand motion were serious legal issues which should have required a conscientious hearing, just as indeed the habeas corpus cases and some of the Civil Rights cases to which I have referred

which the Judge disposed of on the pleadings or by summary judgment only to be reversed later were cases which required a hearing.

I submit to the committee that in nothing that I have read of the judicial work of the nominee are there any signs, and I say this with great deliberation, aware of the importance of what I am saying, there are no signs of real professional distinction which would arise one iota out of the ordinary. On the basis of the nominee's public record, together with what I have read of his work product, I am forced to conclude that the nominee has not demonstrated the professional skills and the larger constitutional wisdom which fits a lawyer for elevation to our highest court. I am impelled to conclude with all deference, I am impelled to conclude that the nominee presents more slender credentials than any nominee for the Supreme Court put forth in this century, and this century began as I remind this committee with the elevation to the Supreme Court of the United States of the Chief Justice of Massachusetts, Oliver Wendell Holmes.

If I am right in what I have said, or if I am even close to right, and whether I am close to right I think itself probably requires, in deference to the Judge himself, far more study than I myself have had a chance to do in a very limited time of his judicial work. I am only testifying from what I have read, but if I am close to right, I suggest that in this setting, this committee must consider carefully the implications of appointing to the Supreme Court a judge known not to be zealous, again to use Mr. Graham's understatement, not to be zealous about Civil Rights, for it begins to appear, I submit, that what distinguishes this nominee from other Southern Republicans the President might have put forward, and I cite the examples which Mr. Harris gave, Judge Brown, Judge Wisdom, with them I might rank Judge Frank Johnson of Alabama. What distinguishes this nominee from judges of that calibre is on the one hand a particular form of judicial conservatism of which the trade mark is the nominee's lukewarmness with respect to the enforcement of the guarantees of the Bill of Rights, not alone but particularly in the Rachel field, and on the other hand the nominee's far less substantial professional qualification for a place on our highest court.

In this context I would ask the committee to address once again the significance of the nominee's now notorious speech of 1948, a speech which he I am happy to say has forthrightly repudiated. I do not think, I would add that I have never thought that the 1948 speech standing alone irretrievably disqualified the nominee, but what that spech did do was to sharpen the question which this committee and the Senate faces with respect to every nominee before the Supreme Court. Has the nominee given evidence of the highest level of professional and public responsibility save only the Presidency, which lies within the gift of the American people. That is the question which is sharpened, put in sharper focus by the 1948 speech.

Here the question is sharpened in the sense that, confessively, this nominee began his professional career with a set of beliefs wholly antithetic with the central purposes of our constitutional democracy. It might be possible to surmount such a handicap. There has been discussion by prior witnesses and by members of this committee of the example of Mr. Justice Black. The analogy is certainly not a complete lie. The Justice did have a connection with the Klan, but at very much the same time he was himself a lawyer emphatically and vigorously representing black citizens of his own state.

More to the point of course, before Justice Black was called to the Supreme Court of the United States, he had become a figure of national consequence, well known. There could hardly be doubt of what his basic principles were when he was appointed to the United States Supreme Court 33 years ago.

One might, I suppose, go back to the elder Justice Harlan. That distinguished Justice was, it is hard to remember it, but he was an outspoken foe of the 13th Amendment to the Constitution; and yet before the Justice came to the court, he too had become a figure, a great public figure of distinction, and one whose own public views were clearly transformed into commitment to and support of the fundamental principles of the post-Civil War amendments, and so he lived to be the Justice who dissented with such distinction in the Civil Rights cases in Plessy vs. Ferguson.

Can we find in the present nominee any comparable demonstration? To ask the question as Mr. Chief Justice White is wont to say is to answer it.

I wish the committee to understand that I do not question Judge Carswell's good faith in repudiating a speech which he and which all of us I am sure are ashamed. What I ask is what symbolism would attach to Senate confirmation as Associate Justice of the Supreme Court of the United States of a lawyer whose later career offers so meager a basis for predicting that he possesses judical capacity and constitutional insight of the first rank. What symbolism, I ask, and in answering the question I remind you of the dictum of the late Mr. Justice Jackson. One takes from a symbol what one brings to it.

I put it to this committee that if the nominee's unfortunate speech, and I say this advisedly, if that speech had been an attack on Jews or an attack on Catholics, his name would have been withdrawn within five minutes after the speech came to light. We are asked to ignore the speech he actually gave, a speech declaring in effect that America is a whites only country. We are asked to ignore it as a youthful indiscretion, just the kind of thing one had to say if one wanted to get ahead in Florida politics vintage 1948.

I submit with all respect that to confirm the nominee on this record is to make a statement of a different sort. That lukewarmness to the rights embodied in the Constitution, and most especially rights of black people is not just Florida politics vintage 1948 but American politics vintage 1970, and on that reckoning it is not Judge Carswell who is accountable, not his good faith which is in question. What is called into account is the constitutional commitment of the American people today, and most particularly of the United States Senate, because it is in your hands, you as Senators of the United States. It is you who must choose whether to consent to this nomination.

One gets out of a symbol what one brings to it even if that symbol is our highest court, even if that symbol is the Constitution of the United States to which we all owe true faith and allegiance.

Thank you.

Senator KENNEDY. Thank you very much, Dean. We appreciate very much your comments on this. I know you have been here for a long day, and I want to tell you how much we welcome your remarks. You said that you are an officer of the Section of Individual Rights and Responsibilities of the American Bar Association, but you do not speak for the Association or the Section. Can you tell us why that Section doesn't express itself on Supreme Court nominations, if it has a strong opinion?

Mr. POLLAK. Well, I am a relative novice with respect to the constitution dynamics of the ABA, Senator, but I believe that the section, a section would not be regarded as having any standing to speak to an issue of judicial qualification, since there is a committee, Judge Walker's committee, which reports as I understand it to this committee its views on that issue, so it would be essentially a jurisdictional problem.

Senator KENNEDY. Don't you think your section would be able to bring a rather different and unique slant in terms of the qualifications of the nominees? Don't you think that would be valuable and helpful for certainly members of this committee and the members of the Senate to have?

Mr. POLLAK. Well, if we were entitled to express a view, I would hope it would be a view worth your having. I do not for a moment though, Senator, I do want the record to be very clear on that, I do not for a moment want any confusion to arise with respect to my own agency in that matter. I am in no way speaking for the section or for any other member of the section. I have not consulted any other member or officer of the section with respect to my remarks, just as I have consulted nobody in the various other organizations, the university with which I am affiliated in that sense.

I would think, and perhaps this is really more directly responsive to your question, I would think that there were many members, many individual members of the American Bar Association, and many individual attorneys not members of the American Bar Association, but certainly I can think of many in the Association whose views as to a particular nomination might well not correspond with the views which are formally rendered to you. I think that is perhaps all I should say with respect to that.

Senator KENNEDY. In your opinion, based upon your research, review of these cases, and given your own rather extraordinary background, and the fact that you are dean of one of the great law schools in our country today, are you prepared to make any kind of comment in terms of, or how would you characterize the judge's decisions in terms of civil rights issues?

Mr. POLLAK. You understand, Senator, that I am responding only in terms of the cases which I have read. I do not know the judge, and so this is a purely consumer response.

Those cases I have read, in which he has written in the area of civil rights, seem to me cases marked by on the whole a very restrictive view of the rights protected by the Constitution. Examples which seem to me relevant here are the Escambia County School case, I believe it goes by the name of Augustus vs. Board of Public Instruction, about which Professor Clark gave some testimony, the unreceptivity of Judge Carswell to the proposition that school segregation was more than a question of the allocation of students by race, but also ran to the question of faculty segregation. Judge Carswell's unreceptivity to what seemed such an obvious and fundamental proposition seem to me astonishing.

It is of interest incidentally that that litigation was commenced on behalf of the plaintiffs with two lawyers as counsel for plaintiff who now grace the Federal bench, Judge Motley and Mr. Justice Marshall, but they had gone on to their judicial careers before that long litigation was completed, before the rights they sought to protect at the bar were vindicated.

Again it seemed to me that Judge Carswell's difficulty with the proposition that a reform school also had to be desegregated, that seemed to me a curiously narrow view of what constitutional rights were to be protected for black people. I am aware of course that there are at least two cases, there may be more, but this is the Barber case in which Judge Carswell did direct compliance with the 1964 Act, and there is the Tallahassee Airport case.

These stand out from my point of view in rather signal and lone exception to the other cases in which the judge was so frequently reversed by the court above him.

Senator KENNEDY. I have no further questions.

Senator TYDINGS. Mr. Chairman, I have no questions other than to ask the distinguished witness is it my understanding that you testified that in your judgment that the nominee before us is the most poorly qualified nominee to the Supreme Court in our generation?

Mr. POLLAK. Well, I went beyond your generation or even my generation, Senator. I put it back to the beginning of the century, to the nomination of Mr. Justice Holmes in 1902. It might be taken back farther than that perhaps, but that covers some forty nominations, and I would assert that on that ranking this nominee falls short of any.

Senator TYDINGS. Is that the area of your scholarship, between 1902 and to date that you comment upon?

Mr. POLLAK. I cannot confine my scholarship that way or indeed claim that as a preserve. I guess it is how far back I thought I could safely take the estimate in a few minutes' reckoning. I will have to say and state quite candidly that when one gets back to the nineteenth century at least I find that here are names of people who were sometimes very briefly, sometimes for several years on the Supreme Court of the United States, names which have at least been lost on me, so I cannot really go back and make relevant comparisons with great confidence, except for the main figures of course back before 1900, but as my mind ran and my eye ran back through all of the men who have sat on the court in this past 70 years, it did seem to me striking the paucity of this nominee's qualifications as compared with all of the others.

Senator TYDINGS. I thank you.

Senator KENNEDY. Senator Hruska?

Senator HRUSKA. Dean, when you were asked to characterize the opinions of Judge Carswell, you prefaced your remarks by saying well, "From those cases of his that I have read," and then you went on. How many cases did you read?

Mr. POLLAK. Before you had returned, Senator, I explained that in the very little time at my disposal, that is to say starting Saturday evening and running through yesterday noon I think I ran through his district court opinions from '69 back through '65, a period of about five years, and it is not a very neat process just going through the volumes of Fed. Sup., but there were 30-some odd opinions, about 30. Now I do want to be sure the record is clear on that, and I am particularly glad you asked me that precise question, Senator, because it is true that I have not read his opinions since he has been on the court of appeals or when he was sitting by designation on the court of appeals, and that is really because I have no convenient way of indexing them. It would be something I would be happy to do, and in fairness to the nominee and to this committee I would be ready to do if there were more time to go into it at greater length.

Senator HRUSKA. But your lack of time did not permit you to get into his circuit court cases?

Mr. POLLAK. That is correct.

Senator HRUSKA. I understand there are some 50 opinions that he has rendered?

Mr. POLLAK. I heard that today.

Senator HRUSKA. That is the only figure I go by, the figure that we heard today. Now, Dean, in all honesty would it have made any difference in this case if he were a good judge and had written his opinions, had good opinions? Do you think it would have made any difference? You know we had a rather unfortunate experience for the Bar and for the country not too long ago in another man that was nominated from that area of the country, and he had good opinions and he was a good jurist and is, as time will prove, but he earned $1 million somehow or another, and there was the appearance of an evil and he was said to be a man in reproach because accusations were brought against him. Besides there were people who said well, he wasn't a contemporary man.

Do you think it would really have made any difference if this man had written brilliant opinions and good opinions? Would he have been accepted now at this juncture?

Mr. POLLAK. Senator Hruska, it would have made a difference, indeed a dispositive difference to me. As I tried to make clear, though I was deeply concerned about a position announced by this young lawyer 22 years ago, I would not regard that as disqualifying if I saw in his professional record the kind of excellence and the kind of current constitutional commitment required of an appointee.

With respect to—and I am particularly glad to compare this with the experience which the Senate and the Nation just went through with respect to Judge Haynsworth, I was one of those who felt that Judge Haynsworth should not be confirmed. Indeed, though there is no reason for you to recall it. I think I probably burdened you with a carbon copy of a letter I wrote to my Senators, Senator Dodd and Ribicoff.

Senator HRUSKA. You did.

Mr. POLLAK. But I would make the point that my opposition to the confirmation of Judge Haynsworth was limited to the problem of the appearance of sloppiness, if you will, with respect to what cases he sat on. I did not on the basis of what I knew think that Judge Haynsworth failed, should fail of confirmation on the ground that he was not professionally qualified, though it was reasonably clear to me that there would be many issues, and many important constitutional issues on which I and Judge Haynsworth would differ.

I was fully prepared to accept the professional appraisal of him, which was made, for example, by Professor Van Alstyne, who in these hearings has indicated by contrast his limited view of Carswell, or that was made by Professor Charles Wright of Texas, another scholar, who thought Judge Haynsworth would be an able addition to the Supreme Court of the United States.

I would have gladly gone along with the nomination in terms of professional competence. It was a quite different issue, one that I do not believe is even present in this case, which led me to take a view in opposition to Judge Haynsworth. So in direct response to your question, for me it would have made a controlling difference, if the professional record of this nominee were other than what it is.

Senator HRUSKA. Were you here most of the day to hear the testimony?

Mr. POLLAK. I was.

Senator HRUSKA. This afternoon?

Mr. POLLAK. Yes, I was, Senator.

Senator HRUSKA. You say it would have made a difference to you had he been a man perhaps better accomplished in the writing of opinions or maybe legal treatises or maybe a book or two, even if it is about climbing mountains or whatever. It would have made a difference to you. But would it have made a difference to the voices of opposition that have been raised against him in your judgment? I know you live in an academic atmosphere. Sometimes we kind of envy people who live in that type of atmosphere.

Mr. POLLAK. Not recently, however.

Senator HRUSKA. But you are a good reader and you are a good student of life and of contemporary affairs. Do you honestly believe it would make any difference in the type of opposition that is developing here to this man, if he had been a man of excellence in a juristic way, in an academic way?

Mr. POLLAK. Senator, obviously you are much more acclimated than I as to what kinds of pressures develop with respect to public problems of this kind. My own judgment, however, is that if Judge Carswell were a man of different caliber, we would have had no such problem as that posed before this committee today. You would not have had the testimony of Professor Van Alstyne. You would not have had the testimony of Professor Orfield, whom I do not know. You would not have had the testimony of Professor Lowenthal. I don't believe, as I think about the witnesses today, that they would take the same view, most of them, that they have announced, had they not shared my view that here was a man not qualified professionally, and evidently selected, as Mr. Harris has suggested and as Congressman Conyers has suggested, and others have suggested, on bases other than professional qualification. That is the great difficulty. And when one identifies what those other issues are, then one's concern for the future of the Court becomes enlarged.

Senator HRUSKA. But you do feel that if there were juristic attainment and academic attainment, maybe some authorship and a little bit of proven quality, he would not have the trouble he is having now?

Mr. POLLAK. Senator, will you permit me? I have talked much about professional attainment, but I do not want that necessarily to be equated, even though others have stressed this, with the writing of books or treatises or articles. Those may very well be evidence of important achievement, but that is not what is required. What is required I think is to find in the core of judicial work the distinction, the preeminent distinction that goes with the place on the Supreme Court of the United States.

I do not know, for example, maybe I am just uninformed, I do not know in Judge Brown's case or Judge Wisdom's case, of these extraneous evidences of judicial distinction.

Senator HRUSKA. This is well put, and I accept that explanation. You know lurking in the back of my head, and it does not only lurk there, it looms large there, Dean Pollak, is the experience we had with John Parker, brilliant jurist, a great scholar, preeminent in his field, but he came from the wrong part or the country for the people who said "No, we cannot have that man," and they voted him down. One of the great tragedies of judicial history in America, excellence above most nominees to the Supreme Court just in the vein about which you speak, and they said no, which leads me to think there are other considerations here, a lot of rationalization, a lot of them, but there are other considerations here, and the President has been trying to fulfill his promise to the American people when he said last fall, a year ago, and he said during the campaign before the election he was going to try to put balance in that Court, and it is along this line that he tried to do it, and there are people who are bound and determined it seems to me that they do not want any balance.

They do not want it, and if they will not find one reason, if they will not find the stock situation or if they do not find something of that nature, the appearance of evil and being put in reproach when the reproach consists of an accusation made, most of them, in fact all of them unfounded and unjustified, then they will find something else, and here we find a new handle. We find a new handle. The man has no excellence. He does not write books, and he has not been on the Bench very long, and he has written only fifty opinions, and therefore he does not do, but back of it all witness the case of John Parker, is the idea "We don't want a man from that section of the land on the Supreme Court."

Do you think there is anything to that?

Mr. POLLAK. Senator, Judge Parker has been very much in my mind because though I know there is a variety of view about him and in his later years he wrote a number of opinions with which I disagree, I have always thought of him as a judge of very considerable distinction, and it has been to my mind a very real question as to whether the Senate was not in error in declining to

consent to his nomination. But the adjectives you use in referring to Judge Parker, the brilliance, the excellence, the ability that you properly ascribe to him, are not I respectfully suggest adjectives that can appropriately be attributed at this stage to this judge, the nominee who is now before you.

Senator HRUSKA. And how are we going to determine that in advance? How are we going to determine that a man who has attained brilliance before his appointment will continue it or he will fall down on the job or the contrary, that being very mediocre, which I do not consider Judge Carswell to be and neither does the Bar Association, but if it were a nominee who were mediocre, what is there to stop him from becoming a brilliant and a good and an excellent justice of the Supreme Court, given all the good qualities that Judge Carswell has, diligence and honesty and sincerity and a good practical grasp of the judicial system, all of those things? What is there to prevent him from becoming a good member of the Supreme Court?

Mr. POLLAK. Senator, obviously I hope that my fears are not vindicated. I think it is entirely likely that Judge Carswell will, notwithstanding the reservations I and others have expressed, that he will be confirmed. He will sit on the Court, and I hope in that event that I am proved, that my doubts are proved groundless. But I think all of us as people of affairs make predictions about the most important decisions before us on the basis of the record that we know, and therefore when a nominee is put forward as President Eisenhower put forward, for example, Judge Potter Stewart of the Sixth Circuit, one could look at Judge Stewart's record on that Court and see that he had already distinguished himself greatly, and that there was every reason to expect that he would distinguish himself further on the highest Court of the land. That is the kind of demonstration of excellence which I think this committee must insist upon as a minimum in passing upon nominees for the United States Supreme Court.

Senator HRUSKA. Well, there have been some harsh things said about Judge Carswell today. There have been some harsh, unkind and totally unwarranted things attributed to the President of the United States in this matter. We are going to hear some more of them tomorrow, and we are going to hear that this man is not for the Constitution. I presume we will. And there are others who are for the Constitution, and we should be for nominees who are for the Constitution. We ought to put those in perspective and sort of balance them out, because some people when a man does not write the kind of opinions he agrees with says he is no good. We have a young man here well motivated and very noble. He spent volunteer work down there, the first time he was ever in court and he knew just exactly what kind of a judge and the attitude Mr. Carswell had. I have been in practice a quarter of a century before I came to the Senate and I know of some mature lawyers who when they get through with a trial in a court have their opinion and they voice it in no uncertain terms, if the judge found against him he is a bad judge and if they found for him he is a good judge and I guess that is the way we are sometimes motivated. But I do not believe that some of the testimony, the kind which we have heard here today, bitter, vituperative, vindictive, very harsh and unwarranted, I do not know that that has any place in a matter of this kind because it impugns the desires and the motivations of a President who has proven himself to be a patriot, not just since he is President but long years before that, and I would not ascribe to him, and I do not think the Nation will ascribe to him base political motivations in this thing or the payment of political judgments.

He is just as interested in the future of the Supreme Court as anybody else, and maybe more than a lot of people, having in mind that this is a nation of 200 million and fifty States, not just a nation of sects, some of whom have been hurt here and they are entitled to be hurt, but I still just wonder when there looms in the thinking that we have and we are entitled to have a Judge Parker who perhaps in your opinion has one standing, but who in the general legal world ranks high in terms of excellence and brilliance, and we had him pretty shabbily treated, notwithstanding his efforts, notwithstanding them. So I just wonder how much we are seeing history reenacted in this nomination.

Mr. POLLAK. I hope the record is clear, Senator, that with respect to Judge Parker I thought him indeed a very able judge too. If there was something in what you just said which suggested that perhaps——

Senator HRUSKA. He rendered a number of opinions with which perhaps you did not agree and you would not go to the extent that I went in describing him as an excellent and a brilliant judge. It was that that I referred to.

Mr. POLLAK. I thought he was a very able judge, of very very considerable distinction. I have long entertained doubts whether it was not a great mistake to fail to confirm Judge Parker's nomination, and indeed in one respect I think one aspect of that debate illustrated something, a point which you made earlier today, that one ought to look at a judge's work in terms of what the law was at the time, because I believe it to be true that Judge Parker was unfairly charged with innovation in a labor injunction case in which he was merely following the applicable Supreme Court precedent, so that case, Judge Parker's case, has always illustrated that very pointed proposition which you put to us earlier today and to me.

Senator HRUSKA. Innovation in what respect, in respect to——

Mr. POLLAK. No, that as I recall the debate over Judge Parker, many of those who charged that he was anti-labor used as evidence an opinion of his in the circuit court which was an opinion upholding a labor injunction or directing the granting of such an injunction, but that that decision of his was one which should in terms of the applicable Supreme Court law at the time was simply a proper application of what the Supreme Court had said, so that to fault Judge Parker in that respect was to fault him from doing exactly what a lower court judge is supposed to do. I had commented in your absence, Senator Hruska, on the fact that you made the point to us, the admonition that in evaluating Judge Carswell we should look at the law as it stood at the time he made his decisions. I made that point because it seemed to me that in the habeas corpus field, I found him departing from clearly enunciated standards at the time he was making his decisions, and I also addressed myself to the problem of removal and remand which had concerned you so much before, but I do not mean to rehearse that further now. But I did want you to know that when you were away, Senator, I was addressing myself to some of your concerns on that score.

Senator HRUSKA. Thank you very much. You have been helpful to the committee.

Senator THURMOND. Judge Pollak, you are of course welcome here. I was surprised at one of the statements you made if I understand it correctly. Did you say you considered Judge Carswell the least qualified man to be appointed to the Supreme Court in the history of the country or just how far back did you go?

Mr. POLLAK. My cut-off point, Senator, was back to the beginning of this century, 1900. That takes us back to the appointment of Justice Holmes.

Senator THURMOND. Do you know Judge Carswell personally?

Mr. POLLAK. No, I do not. I am speaking wholly on the basis, as I indicated to Senator Hruska, of what I have read of his work product and of what I have heard of the testimony of those who seem to have more direct knowledge.

Senator THURMOND. You are judging, from what the witnesses have said today, what you heard testimony to today?

Mr. POLLAK. Well, I have had the advantage happily of reading some of the testimony by Professor Van Alystyne, who has I think read a good deal more.

Senator THURMOND. On what basis? You have considered what the witnesses who have testified here against him have had to say and judged him at least partly on that basis?

Mr. POLLAK. In part. For example, obviously I do not take uncritically every kind of unrepudiated criticism that is made of any man, but two of those who have had—there are two kinds of testimony I think that have come to you, Senator. There has been the scholarly testimony of those like Professor Van Alstyne and Professor Orfield, who have looked at a great deal of his work. Now I am not acquainted with Professor Orfield. I am acquainted with Professor Alystyne and his work, and I know the kind of respect it deserves. And I have had some opportunity, some limited opportunity to confirm his impressions by reading a number of Judge Carswell's opinions on my own, though as I acknowledged to Senator Hruska it is of course only a fraction of the whole matter.

Beyond that there has been testimony from lawyers who have had by experience before Judge Carswell some personal basis for seeing him in action as a judge.

Now I would be very chary in general about estimates by counsel of judges they appear before, especially since I am conscious as one who has occasionally been in court, that when a judge decides against you, you do not always have the most charitable view of him. But it happens that both Professor Lowenthal and Professor Clark are lawyers whom I know and know well, and admire and know the integrity of and know the standards of, so their views with respect to how they have been treated or how they see causes treated, issues treated in court seem to me views that bear very great weight. But of course I would be first to say that if there is another perspective to be looked at, if there is conflicting testimony with respect to that aspect of the judge's work, that should be brought to this committee's attention.

Senator THURMOND. When did you first decide to come here and testify?

Mr. POLLAK. Somewhere between Thursday and Friday last, Senator. I had been reading the papers and was being more and more distressed, and then when I saw my friend and former colleague Professor Van Alystyne had testified, I tried to get in touch with him to see if I could get a copy of his statement.

Senator THURMOND. Did someone suggest you come?

Mr. POLLAK. In the first instance the person who suggested it was my wife. In effect she said "If you feel what happens to the Supreme Court is important, and you have got doubts, doubts you think you should tell somebody."

Senator THURMOND. So you did not plan to come until after some of the witnesses had testified?

Mr. POLLAK. That is correct.

Senator THURMOND. So you evidently are basing as you say your opinions about Judge Carswell now on the basis of what the witnesses have had to say about him, and those who testified against him primarily?

Mr. POLLAK. Senator, that is important, true, but what is also true is that I have been able—his biography I take it is a matter of public record, but I have thought that in fairness to the committee, if I was going to say anything worth your listening to, and in fairness to myself, and in fairness to the judge, I also should attempt myself to read enough of his work so that I could get at least some sense as to whether indeed his work product was of the essentially pedestrian character which was attributed to him, and whether it was true that in the particular areas with which he has been attacked as being inadequate in the civil rights area, and the related area of habeas corpus, whether I concur in that judgment, because these are fields, those happen to be fields in which I have done some work, and my own direct reading of the judge's work product in those areas confirms for me that this is—I do not enjoy saying this, but that it is second-rate.

Senator THURMOND. You of course know that he has a very fine record in college, that he was a successful private attorney, that he was a distinguished United States district attorney, he is a distinguished circuit judge and now has made a good record on the Circuit Court of Appeals. You are familiar with his record, aren't you?

Mr. POLLAK. Senator, you have read some of the characterizations of his career. I think he himself did not characterize his practice as a very extensive one. He was in private practice as I recall only a few years. He graduated from law school in '48 and became United States Attorney I think five years later. He was in Governor Collins' law firm for a while and then formed his own small firm.

Senator THURMOND. That would not make too much difference, would it, having some college professor, law professor who has been appointed to the Bench who has had any practice.

Mr. POLLAK. Indeed that is true with respect to—

Senator THURMOND. And so that would not be too much against him?

Mr. POLLAK. I am trying to assess the way you have put the matter to me. I thought you had said that it was a distinguished private practice. I think it was a very brief period of private practice and as a junior lawyer. I do not say it in criticism but I do not think anything important can be made out of it in one way or another.

Senator THURMOND. It was a successful practice and a distinguished service as a U.S. Attorney.

Mr. POLLAK. I have no way of characterizing that.

Senator THURMOND. It would not make any difference, the matter of adjectives if they were all good.

Mr. POLLAK. I know nothing about his service to the——

Senator THURMOND. You are mostly expressing an opinion on this man because some of your friends have testified, have given testimony that indicates to you that he is not qualified for the position, but to go so far as to say that he is probably the least or is the least qualified man since the 1900s is going a very long way, don't you think. That is 70 years, suppose someone would say about you that you are the least qualified man since 1900 to be dean of the law school at Yale University how would you feel?

Mr. POLLAK. Well, I think that would probably be a reasonably good estimate. Actually there have been fewer of us and I can make that comparison fairly readily, and I certainly cannot put myself——

Senator THURMOND. Did you say you want to admit to that statement?

Mr. POLLAK. But I said what I said with deliberation and deference, and I would be glad to go back with you through the men who have been named to the Supreme Court. We could work our way backward, and see the level of——

Senator THURMOND. You have been testifying a long time and we are about ready to get through, but it seems to me you made a very exaggerated statement, and it seems that your intense zeal—have you ever been called a zealot of civil rights?

Mr. POLLAK. I cannot recall anyone offering me that before.

Senator THURMOND. It seems you are showing intense zeal in that field, together with some of the other lawyers who were volunteer lawyers down there in the same field may have warped your mind a little bit on this subject.

Mr. POLLLAK. Senator, I think it is right for you to apply a substantial discount to what I say in terms—

Senator THURMOND. I am not trying to discount you. You have got a right to say what you want to.

Mr. POLLAK. No, no, I understand.

Senator THURMOND. But here you are trying to block a man from the Supreme Court who has a fine record, who has decided labor cases both ways, civil rights cases both ways, other cases. He has had a diversity of practice. He has handed down a diversity of opinions, and I am just wondering if you really feel when you reflect on it that down in your heart you really do him justice.

Mr. POLLAK. Senator, I acknowledge, and that is why I wanted it to appear on the record, that I happen to have in some areas of the public law very strongly-held views, most particularly I believe very strongly in the enforcement however much this is a latter-day enforcement of the provisions of the Fourteenth Amendment which have fallen for so long into disuse. I want this committee to know that I have those constitutional biases in assessing any of my views, and yet I have come before you because my field is constitutional law. I have worked with the Court, this may sound megalomaniac on my part, but I have worked with its work ever since I graduated from law school.

My first job was law clerk to the late Justice Rutledge, so that it was my privilege to spend a year there seeing justices at close range, hearing great lawyers argue great cases, and I thought I knew what made a judge of the United States Supreme Court from what I saw of that group of distinguished men, and it is that kind of sense of critical importance of the job those men do. I am talking now about judges with some of whom I found myself frequently in very profound intellectual and philosophic disagreement, but it is in terms of the importance of their mission and the absolute indispensability of the higher order of professional competence and constitutional insight, it is against that kind of background, Senator, that I offer you what I agree may sound like exaggerated views, but I think back to the kind of record of demonstrated achievement which judge after judge had, whether it was Senator Black or Senator Byrnes or Judge Cardozo or Mr. Brandeis, Governor Hughes, Judge Stone who had been Attorney General, Senator Sutherland, judge after judge where men who came to the United States Supreme Court capping a public career of extraordinary distinction, and that seems to me the standard which this committee is required to urge upon the Senate to uphold in this case.

Senator THURMOND. I have no more questions. I must say that even with your intense zeal in the civil rights field and your sympathy for the witnesses who testified, and basing your opinion chiefly upon what those witnesses had to say, I am a little disappointed that you would go so far as to express the strong opinions that you have about Judge Carswell.

Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, sir. You are excused.

SENATOR MUSKIE'S ANALYSIS OF ENVIRONMENTAL BUDGET REQUESTS

Mr. EAGLETON. Mr. President, the Federal budget clearly reflects the commitment of the executive branch to the pursuit of certain national objectives. On Tuesday of last week, the Senator from Maine (Mr. MUSKIE) made a statement regarding the commitment of the administration to the goal of improving the quality of our environment. The analysis of the distinguished chairman of the Subcommittee on Air and Water Pollution speaks for itself. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR EDMUND S. MUSKIE ON THE ENVIRONMENTAL BUDGET REQUESTS BY THE ADMINISTRATION, FEBRUARY 3, 1970

The President's expressions of concern over the environmental crisis were helpful in the battle against air, water, and land pollution. However, the budget that the President proposed yesterday does not reflect the sense of urgency which he expressed in his State of the Union message.

The President apparently has abandoned the promises he made less than two weeks ago.

Congress has authorized $1.25 billion for the construction of water pollution treatment facilities for fiscal 1971. The President has requested none of it. Instead, he has proposed a new plan—at the same level Congress appropriated for 1970, at a lower level than the plan authorized by the Congress in 1966, at a lower level than the plan which I have proposed for the next five years, and at a lower level than we can afford.

We have been asked to set the water pollution control programs back another year, to accept another year of promises for the future, to tolerate another year of deteriorating rivers and streams.

How long must we wait?

The Congress appropriated $45 million for air pollution research for fiscal 1970, but the President has asked for $27 million for fiscal 1971—less than last year and less than we can afford. The Congress appropriated $64 million for the air quality standards program for fiscal 1970, but the President has requested $79 million for fiscal 1971—much too small an increase.

We must double the pace of the standards-setting process, not stop it. We must attack every source of pollution, not some of them. We must eliminate delays in enforcement, not increase them.

How long must we wait?

The Congress appropriated $14 million for the control of solid waste pollution in fiscal 1970, and the Administration has requested no more for fiscal 1971.

We must learn how to recover valuable resources which we now waste and dispose of our other wastes without polluting our land, our air, and our water. But we have been told that we cannot afford it.

How long must we wait?

The President has told us that there is room in the budget for $275 million for the

SST—but room for no more than $14 million for the protection of our land.

That there is room in the budget for $3.4 billion for space—but for no more than $800 million for the control of water pollution.

That he has found room in the budget for $2.3 billion for atomic energy—but no more than $106 million for the control of air pollution.

The President has not escalated the battle against pollution. He has retreated from goals which the Congress has already set.

The President has submitted a balanced budget to the Congress, but it is a balanced budget which reflects unbalanced priorities. It is one step forward and two steps back.

Fighting inflation is a battle of the highest priority, but the Administration has chosen to fight that battle at the expense of our air, our water, our land, and our people.

Do most Americans feel that the SST, space exploration, the ABM, and atomic energy are more important than our air, our water, our land, our homes, and our health? These are the kinds of decisions that the Administration has made. They are not decisions with which America can survive.

It is a sham to say that we cannot afford the protection of our environment, the fight against hunger and poverty, or homes and medical care for our people. We can afford these domestic programs—and fight the battle of inflation—if we admit that we cannot afford other programs which are much less important.

We need some things, and we do not need others. It is time we understood that difference and made our nation's budget reflect that understanding.

DISPOSITION OF SURPLUS FEDERAL PROPERTY

Mr. JACKSON. Mr. President, early in the first session of the 91st Congress I introduced S. 1708, the Federal Lands for Parks and Recreation Act. The Senate unanimously endorsed this measure on June 26, and it is now awaiting action in the House Committee on Interior and Insular Affairs, along with companion bills introduced by Mr. MEEDS of Washington, Mr. WOLD of Wyoming, Mr. MCCLURE of Idaho, and several other Representatives.

The purpose of the measure is to make surplus Federal property available to State and local governments for park and recreational purposes at prices which reflect the important role that recreation and open spaces play in our contemporary life. The bill would amend the Land and Water Conservation Fund Act by providing that for a period of 5 years after the date of enactment, surplus Federal property could be conveyed to State and local government for park and recreational use at less than the 50 percent of fair market value required under present law.

The bill is of special importance to many of our major metropolitan areas where the need for parks and open spaces is greatly increasing while at the same time the limited land available is being dedicated to other, often incompatible, purposes. If we are to improve the quality of life and surroundings for the residents of our major cities, we will have to take advantage of every future opportunity to acquire land adjacent to where people live for recreational and park purposes.

It is my firm belief that if we are to meet the burgeoning demand for quality recreation, then action must be taken now to acquire and develop the necessary land for this purpose.

If enacted, the bill would assist every State in the Nation which has, or soon may have, surplus Federal property available. Mr. President, I have before me a list of the surplus real property, custodial reserve real property, and related personal property classified for disposal under provisions of the Federal Property and Administration Services Act of 1949.

This summary was prepared by the General Services Administration and includes all property on hand as of December 31, 1969. It should be noted that all 50 States as well as the District of Columbia, Puerto Rico, and the Virgin Islands contain at least one parcel of surplus Federal property.

Mr. President, because of the importance of this list to Members of Congress, I ask unanimous consent that the GSA report be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

GENERAL SERVICES ADMINISTRATION—PROPERTY MANAGEMENT AND DISPOSAL SERVICE

[Surplus real property, custodial (NIR) reserve real property, and related personal property for disposal under provisions of the Federal Property and Administrative Services Act of 1949, as amended—on hand as of Dec. 31, 1969]

[In thousands of dollars]

GSA control No.	Property	Reported cost
	REGION 1—BOSTON	
N-Conn-444A	Naval Weapons Plant, Bloomfield (84.62 acres, 13 bldgs.)	[1] 2,508
GR-Conn-460	Nike-Ajax Site HA-25, Manchester (36.80 acres, 14 bldgs.)	810
U-Conn-484	Winthrop Cove Sites, New London (3.97 acres, 12 bldgs.)	260
G-Conn-485	U.S. Post Office, Glastonbury (0.42 acre, 1 bldg.)	77
T-Me-515	Damariscove Island Lifeboat Sta., Lincoln Co. (0.77 acre)	(a)
D-Me-526C	Dow AFB, Bangor (340.594 acres, 313 bldgs.)	12,752
T-Me-533	Burnt Island Lifeboat Sta., Burnt Island (1 acre, includes 0.2 acre leased, 2 bldgs.).	37
D-Me-551	Nike Hercules Site L-13, Caswell (54.74 acres easements)	1
D-Me-562	Nike Hercules Site, Caribou (23.50 acres easements)	1
N-Me-563	Naval Res. Trng. Center, South Portland (13.9 acres, 5 bldgs.)	343
D-Me-565	Gap Filler Annex, Bridgewater (84.43 acres, includes 48.00 acre easements, 1 bldg.).	149
U-Mass-440A	Light Sta., Edgartown (8.3 acres)	(a)
T-Mass-484	Maddaket Lifeboat Sta., Nantucket (4.348 acres, 1 bldg.)	2
D-Mass-638D	Fort Devens, Lancaster (22.00 acres, including 7.44 acres road right-of-way).	5
U-Mass-646A	Fort Heath, Winthrop (0.327 acre, utility lines)	11
N-Mass-654	NIR Gear Plant, Lynn (69.06 acres, 36 bldgs.)	[1] 12,881
D-Mass-665	Nike Ajax Site B-85, Bedford (2.53 acres easements, improvements).	5
D-Mass-672	L. G. Hanscom Field, Lincoln (0.47 acre easements, obstruction lights).	7
G-NH-434	Old Post Office and Courthouse, Concord (1.3 acres, 1 bldg.)	523
D-RI-449A	Capehart Housing, Foster (4.32 acres, 17 bldgs.)	238
G-Vt-432	U.S. Post Office, St. Johnsbury (0.51 acre, 1 bldg.)	102
Total, region 1 (21 cases)		30,712
	REGION 2—NEW YORK	
U-Del-432	Lewes Lifeboat Sta., Lewes (1.4 acre, 3 bldgs.)	84
D-Del-433	Bethany Beach Gap Filler, Sussex Co. (5.07 acres, includes 4.47 acre easements, 1 bldg.).	46
G-NJ-401E	Tank Farm GSA Depot, Somerville (10.3 acres, 76 bldgs., storage tanks).	3,234
D-NJ-440C	Raritan Arsenal, Township of Edison (.054 acre, plus easement).	(1)(a)
I-NJ-440D	Raritan Arsenal, Edison (0.3 acre, 1 bldg.)	27
N-NJ-455A	Naval Ammunition Depot, Colts Neck (7.8 acres)	4
D-NJ-463C	Camp Kilmer, Middlesex Co. (0.80 acre)	8
D-NJ-484A	Nike Battery NY-88, Wayne TWP (24.71 acres)	37
I-NJ-488A	Killcohook Nat'l Wildlife Refuge, Salem Co. (9.6 acres)	1
D-NJ-497	Philadelphia Defense Area, Nike Battery PH-49, Pitman (40 acres easements).	20
T-NJ-499	Bonds Lifeboat Sta., Beach Haven Heights (1.08 acres, 2 bldgs.)	25
T-NJ-509	Corsons Inlet Lifeboat Sta., Strathmere (0.4 acre, 4 bldgs.)	35
X-NJ-510	Wayne Radio Plant, Passaic Co. (22.35 acres)	16
U-NJ-513	Hereford Inlet Lifeboat Sta., North Wildwood (1.2 acres, 5 bldgs.).	88
W-NY-1A	Lake Ontario Ord. Works, Niagara Falls (79.6 acres easements)	37
R-NY-137	National Lead, Tahawus (Railroad) (32.7 miles railroad right-of-way, 2 bldgs.).	[1] 3,969
B-NY-466J	Lake Ontario Storage Area, Lewiston (9.92 acres, easements and concrete water line).	160
T-NY-538A	Tarrytown Light Sta., Westchester Co. (0.72 acre, 1 bldg.)	7
T-NY-557A	Rockaway Lifeboat Sta., Ft. Tilden (2.78 acres)	(a)
GD-NY-567	Mitchel AFB, Hempstead (111.00 acres, 98 bldgs.)	4,789
D-NY-600A	Nike Battery NY-30, Lido Beach (58.24 acres, 23 bldgs.)	1,819
D-NY-612	Plattsburgh AFB, AF Fac. S-9, Inst. #7475, Dannemora (260.96 acres, includes 252.01 acres easements, 3 bldgs.)	4,999
N-NY-624A	Naval Trng. Center, Port Washington (16.54 acres, 33 bldgs.)	2,501
U-NY-632A	Southampton NY IMWR, Southampton (1.86 acres, 1 bldg.)	39
D-NY-643	Ft. Totten, Queens Co. (56.4 acres, 37 bldgs.)	2,234
U-NY-647	Rock Island Light Sta., Jefferson Co., (4 acres, 5 bldgs.)	9
D-NY-648	Nike Batteries, Orangeburg (33.29 acres, includes 18.22 acres easements).	294
A-NY-649	Soil Management Res. Farm, Marcellus (222.99 acres, 7 bldgs.)	21
N-NY-650	Twin Industries Corp., Buffalo	[1] 991
D-NY-654	Revere Copper & Brass, Rome (related personal)	[1] 177
D-NY-658	Almond Dam and Reservoir, Steuben Co. (0.34 acre)	1
D-NY-659	Charlotte Gap Filler, Cherry Creek (0.57 acre, 1 bldg.)	77
D-NY-660	Brockport Gap Filler, Sweden (1.29 acre, includes 0.70 acre easements, 1 bldg.).	52
D-NY-661	Suttons Corner Gap Filler, Oswego Co. (5.39 acres, includes 1.60 acre easements, 2 bldgs.).	73
V-Pa-440G	VA Hospital Res., Butler (16 acres)	4
GD-Pa-521	Philadelphia Army Supply Base, Phila. (31.64 acres, 37 bldgs.)	13,317
D-Pa-526C	Olmsted AFB, Middletown (1.82 acre)	8,439
D-Pa-560A	Birdsboro Army Tank, Birdsboro (101.94 acres, 40 bldgs.)	[1] 23,534
D-Pa-596A	Nike Battery, McCandless (19.23 acres, restrictive easements)	14
N-Pa-604	Philadelphia Naval Shipyard, Phila. (0.49 acre, submerged land).	n.c.
D-Pa-619	Indiantown Gap Mil. Res., Lebanon Co. (water lines only)	142
G-Pa-620	U.S. Post Office, Pottsville (0.37 acre, 1 bldg.)	276
N-Pa-621	Inert Fabrication Fac., Bridgeville (metal fabrication fac.)	[1] 2,589
D-Pa-623	Nike Battery, Worcester (56.14 acres)	62
D-Pa-625	Nike Battery 93, Allegheny Co. (0.59 acre easements)	50
D-Pa-626	Joliett Gap Filler, Schuylkill Co. (1.41 acres—leased land, 1 bldg.)	45
G-Pa-627	Post Office, New Brighton (0.4 acre, 1 bldg.)	90
D-PR-431A	Fort Amexquita Mil. Res., Cabras Island, San Juan Harbor (42.3 acres, includes 2.41 acres easements, 5 bldgs.).	765
D-PR-436D	Fort Brooke Mil. Res., San Juan (6 acres, 3 bldgs.)	955
N-PR-438B	Naval Sta., Roosevelt Roads, Puerto Rico (4.73 acres)	2

Footnote at end of table.

GSA control No.	Property	Reported cost
N–PR–438C	U.S. Naval Sta., Puerto Rico (12.81 acres, includes 6.32 acres easement, 1 bldg.).	12
D–PR–441B	Fort Buchanan Mil. Res. San Juan (350.80 acres, 82 bldgs.)	5,088
N–PR–453A	Santa Maria grazing and Martineau tracts, Vieques (1,829 acres).	109
N–PR–453B	Santa Maria and Montesanto resettlement tracts, Vieques (797.9 acres).	40
D–PR–457	Henry Barracks Mil. Res., Cayey (255.63 acres, including 0.31 acre easement, 160 acres, 160 bldgs.).	3,028
D–PR–461	Ft. Mascaro Mil. Res., Punta Salinas (150.96 acres, 1 bldg.)	71
N–PR–462	Naval Fuel Storage Fac., Catano (185.835 acres, 7 bldgs.)	1 2,123
D—PR–463	Ramey Petroleum Products Storage Annex, San Patricio (48.32 acres, includes 1.73 acres easements, 1 bldg.)	1 476
T–VI–422	Myhlenfeldt Point Light Sta., St. Thomas (0.1 acre, 1 bldg.)	n.c.
Y–VI–426	Upper Bethlehem, St. Croix (247 077 acres, 2 bldgs.)	11
Y–VI–427	Upper Love, Parcel #7, St. Croix (0.292 acre)	1
Y–VI–428	Adventure Well Field, St. Croix (4.956 acres)	(a)
Y–VI–430	Peters Rest, St. Croix (1.209 acres)	(a)
Y–VI–432	Peters Rest, St. Croix (21.32 acres)	1
Y–VI–433	Bonne Esperance, St. Croix (143.014 acres, 8 bldgs.)	64
Y–VI–434	Bethlehem Middle Works, St. Croix (108.61 acres)	4
D–Vt–420	Plattsburgh AFB, AF Fac. S–3, Inst. 7469, Swanton (263.08 acres, includes 254.13 acres easements, 3 bldgs.).	4,964
Total, region 2 (67 cases)		92,150

REGION 3—WASHINGTON

G–DC–447	Old Emergency Hosp. Washington (0.67 acre, 3 bldgs.)	1,500
N–Md–416B	U.S. Naval Trng. Center, Bainbridge (41 acres, 18 bldgs.)	2,792
N–Md–445P	U.S. Naval Air Test Center, Patuxent River (327.11 acres, 5 bldgs.).	1,888
G–Md–496A	Calvert Building, Baltimore (15.85 acres, 1 bldg.)	800
D–Md–503	Wash-Balt. Defense Area, Waldorf (7.27 acres, 5 easements)	37
N–Md–504	Revere Copper and Brass, Baltimore (Filter for Mill)	(1) (a)
D–Va–505C	Langley AFB, Hampton (0.95 acre easement, 2 bridges)	46
G–Va–510A	Kings Warehouse, Alexandria (1.15 acre, 1 bldg.)	n.c.
J–Va–545A	Federal Reformatory, Petersburg (18 acres)	3
N–Va–579A	Naval Weapons Sta., Yorktown (10.09 acres)	8
D–Va–582A	Lake Drummond Amusement Park, Chesapeake (0.61 acre)	3
G–Va–585	Fed. Records Center, Alexandria (4.3 acres, 10 bldgs.)	2,974
U–Va–590	Leslie LFM/MHW Facility, Leslie, Roanoke Co. (1 bldg.)	6
U–Va–591	Communication Equip. (Telephone) Va. Beach (Telephone line, poles, cross arms, insulators and copper wire).	262
U–Va–592	Assateague Island, Cape Charles (Telephone Line)	221
G–WVA–471	U.S. Post Office, Weirton (0.6 acre, 1 bldg.)	81
Total, region 3 (16 cases)		10,621

REGION 4—ATLANTA

D–Ala–495A	Brookley AFB, Mobile (298.61 acres, 63 bldgs.)	5,791
V–Ala–517B	VA Hosp., Tuskegee (1 bldg.)	5
D–Ala–529	Revere Copper & Brass, Inc. Scottsboro (Related personal property).	12
D–Fla–529A	Avon Park AF Range, Florida (439.72 acres, 52 bldgs.)	1,180
D–Fla–619A	Spruce Creek Research Annex, Volusia Co. (5.5 acres, 1 bldg.)	1
J Fla–660	Federal Correctional Institution, Tallahassee (53.06 acres)	n.c.
N–Fla–669	Naval Reserve Training Center, Tampa (4.5 acres, 7 bldgs.)	184
D–Fla–672	Williams Point Tracking Annex, Patrick AFB (1.4 acre, 3 bldgs.).	84
N–Fla–673	U.S. Naval Trng. Center, Orlando (40 acres, railroad right-of-way).	15
U–Fla–674	St. Augustine Light Sta., Anastasia Island (7 acres, 3 bldgs.)	12
D–Fla–675	VERO Beach Tracking Annex, Indian River Co. (1.21 acres)	2
D–Fla–676	Panama City Harbor Jetties, St. Andrews Bay (40.9 acres)	(a)
I–Ga–477A	Exploratory Fishing & Gear Res. St., St. Simons Island (3.6 acres, 2 bldgs.).	24
D–Ga–543	Andersonville Nat'l Cemetery, Andersonville (43.11 acres)	1
D–Ga–557	Dobbins AFB, Marietta (110.86 acres)	13
G–Ga–564A	U.S. Post Office, Valdosta (.8 acre, 1 bldg.)	199
D–Ga–570	Seminole Reservoir Decatur & Seminole Co. (95.75 acres)	6
A–Ga–571	Pecan Research Lab. Albany (1.2 acres, 10 bldgs.)	76
V–Miss–455C	VA Hosp. Res., Biloxi (52 acres)	n.c.
C–Miss–470A	Hawkins Field, Jackson (1 bldg.)	8
V–Miss–479	VA Center Res., Jackson (104.533 acres, includes 9.043 acres easements, 143 bldgs.)	2,831
U–Miss–491	Engine Generator Site, Greenwood (1 bldg. located on leased land).	3
U–Miss–492	Transmitter Receiver Site, Greenwood (2 bldgs. located on leased land).	37
V–NC–481A	VA Hosp., Oteen (40.54 acres, 20 bldgs.)	1,960
C–NC–523C	Portion Wilmington Reserve Plant, Wilmington (73.25 acres, includes 51.4 acres submerged and 21.85 island)	4
U–NC–533B	Elizabeth City Air Sta., North Carolina (4 acres easement, water lines)	5
G–NC–535	Post Office, Henderson (0.5 acre, 1 bldg.)	213
G–NC–547	Post Office, Roxboro (Space available for lease)	(a)
D–SC–478	Myrtle Beach Gap Filler Annex, Myrtle Beach (0.45 acre, 1 bldg.)	47
B–SC–477	Barnwell Nuclear Ind. Park, Aiken (2,487 acres)	112
D–Tenn–561C	Sewart AFB, Smyrna (147.6 acres, 278 bldgs.)	7,186
D–Tenn–561D	Sewart AFB, Smyrna (2,179.77 acres, includes 534.42 easement, .16 lic., and 216 bldgs.)	33,806
GR–Tenn–562	U.S. Post Office, Lebanon (0.4 acre, 1 bldg.)	53
I–Tenn–576A	Erwin Nat'l Fish Hatchery, Unicoi Co. (14.15 acres)	(a)
Total, region 4 (34 cases)		54,888

REGION 5—CHICAGO

D–Ill–450U	Joliet Army Ammunition Plant, Joliet (50.51 acres easements)	35
D–Ill–460Y	Scott VOR Annex, Inst. No. 1291, Scott AFB, Belleville (316.71 acres)	6
D–Ill–496A	O'Hare International Airport (26.04 acres, 11 bldgs.)	1,236
D–Ill–536	Sangamon Ord. Plant, Illiopolis (54.09 acres, 2 bldgs.)	215
D–Ill–564	Nike Site C–54, Chicago-Gary Defense Area, Orland Park (194.86 acres, 3 bldgs.)	705
D–Ill–566	Kropp Forge Company, Chicago (Related pers. prop.)	1 6,400
CD–Ill–577	Dow Metal Products Co., Madison (Machinery and equip.)	1 1,071
G–Ill–584	Post Office Site, Eureka (0.4968 acre, unimproved)	10
D–Ill–585	Hanna City AF Sta., Hanna City (42.62 acres, includes 2.62 acres easement, 116 bldgs.).	2,341
D–Ill–587	Revere Copper and Brass, Chicago (Machinery and equip.)	1 349
D–Ill–588	Nike Site, Hecker (227.71 acres, includes 34.28 acre fee, 193.18 acre easement, 0.25 acre lic., 27 bldgs.).	2,639
G–Ill–589	Post Office, Park Ridge (0.368 acre, 1 bldg.)	86
D–Ill–590	General Steel Ind. Granite City (Machinery and equip.)	3,540
D–Ill–591	Nike Site, Grafton (19.03 acres, 18.86 acre ease.)	97
N–Ind–420J	Naval Ammunition Depot, Crane (143.7 acres)	6
D–Ind–422	Vigo Ordnance Plant, Terre Haute (27.97 acres)	16
D–Ind–430B	Kingsbury Ord. Plant, LaPorte (69.719 acres, 17 bldgs.)	1 78
V–Ind–459B	VA Hosp. Res., Marion (20.14 acres)	3
D–Ind–472C	Bunker Hill AFB, Peru (73.97 acres)	187
D–Ind–512	Aluminum Co. of America, Lafayette (Machinery and equipment).	1 8,350
D–Ind–513	Gap Filler, Richland (0.47 acre, 2 bldgs.)	67
G–Ind–515	Post Office, Mishawaka (0.43 acre, 1 bldg.)	88
D–Ky–432B	Camp Breckinridge, Morganfield (121.17 acres, 27 bldgs.)	6,242
D–Ky–525	Old Lock and Dam #32, Ohio River, Vanceburg (23.9 acres, 11 bldgs.).	99
J–Ky–529	Fed. Res., Fed. Youth Center, Ashland (74.12 acres, 1 bldg.)	20
G–Ky–532	Post Office, Corbin (0.53 acre, 1 bldg.)	55
D–Mich–418B	Fort Custer Mil. Res. Battle Creek (3,708.81 acres, 33 bldgs.)	1,627
V–Mich–451A	VA Hospital Res., Battle Creek (358.7 acres, 12 bldgs.)	37
GR–Mich–536	Nike Site, Newport (77.81 acres)	11
N–Mich–536A	Newport Housing, Newport (7.94 acres, 26 bldgs.)	405
U–Mich–549C	Lifeboat Sta., Charlevoix (1 bldg.)	16
D–Mich–559	Fort Wayne Mil. Res., Detroit (96.87 acres, 60 bldgs.)	3,718
N–Mich–568B	Naval Air Sta., Grosse Ile (607.4 acres, 93 bldgs.)	11,772
D–Mich–569	Detroit Defense Area, Nike Site D–54–55 C&L, Riverview (15.867 acres easements).	29
T–Mich–581	Copper Harbor Range Light Sta., Keweenaw Co. (9.05 acres, 2 bldgs.)	4
T–Mich–585	South Fox Island Light Sta., Leelanau Co. (115.04 acres, 7 bldgs.).	38
J–Mich–595B	Federal Correctional Inst. Milan (145.2 acres)	n.c.
G–Mich–612	U.S. Post Office, Monroe (0.465 acre, 1 bldg.)	127
D–Mich–614	Revere Copper & Brass, Detroit (Machinery & equip.)	1 1,304
G–Mich–615	Post Office, Battle Creek (0.78 acre, 1 bldg.)	339
G–Mich–621	Post Office, Coldwater (0.28 acre, 1 bldg.)	64
D–Mich–623	Nike Battery, Macomb Co. (9.67 acres easements)	1
D–Mich–624	Nike Battery, Wayne Co. (6.18 acres)	4
D–Ohio–539	AF Plant 41, Cleveland (Related personal prop.)	1 1,301
D–Ohio–550A	Cleveland Support Fac., Parma (115.98 acres, 16 bldgs.)	1,195
D–Ohio–583	Fort Hayes Mil. Res., Columbus (16.93 acres, 47 bldgs.)	799
D–Ohio–585B	Gap Filler, Brookfield (0.55 acre, 1 bldg.)	156
D–Ohio–641A	ALCOA, Cleveland (Machinery and Equip.)	1 4,579
D–Ohio–644	AF Plant #27, Toledo (79.4 acres, 11 bldgs.)	1 20,316
G–Ohio–649	Post Office, Wooster (0.5 acre, 1 bldg.)	149
D–Ohio–652	TRW Inc. Cleveland (Prop. consists of Machinery and equipment).	1 52,611
G–Ohio–654	FOB Site, Cleveland (0.0144 acre)	9
D–Ohio–655	Marblehead Gap Filler Annex, Ottawa Co. (0.55 acre, 1 bldg.)	48
D–Ohio–656	Canton Drop Forging and MFG Co. Canton (Machinery and equipment).	1 897
D–Ohio–661	Bainbridge Gap Filler, Ross Co. (2.61 acres, not included—0.52 acre easement, 1 bldg.).	64
G–Ohio–662	U.S. Post Office, Coshocton (0.62 acre, 1 bldg.)	121
D–Ohio–663	Nat'l Guard Fac., Garfield Heights (15.41 acres, 7 bldgs.)	615
G–Ohio–664	Post Office, Massillon (0.40 acre, 1 bldg.)	160
D–Wis–431B	U.S. Disciplinary Barracks, Milwaukee (40.94 acres, 2 bldgs.)	1,060
D–Wis–431C	U.S. Disciplinary Barracks, Milwaukee (103.2 acres, 9 bldgs.)	576
D–Wis–462A	Two Creeks Gap Filler, Manitowoc Co. (3.42 acres, includes 3.08 acre easements, 1 bldg.).	87
D–Wis–486	Ladish Co. Cudahy (related personal prop.)	1 9,877
D–Wis–498	Jim Falls Gap Filler, Jim Falls (0.41 acre, 1 bldg.)	67
D–Wis–499	Gap Filler, Brooks (3.77 acres, includes 2.65-acre easement, 2 bldgs.).	59
Total, region 5 (64 cases)		148,183

REGION 6—KANSAS CITY

GV–Iowa–406C	VA, Clinton (77.05 acres, 65 bldgs.)	6,253
D–Iowa–453	LaMotte Gap Filler Annex, LaMotte (0.67 acre, 2 bldgs.)	46
D–Iowa–455	AF Fac., Alcoa Plant, Davenport	11,331
G–Iowa–459	U.S. Post Office, LeMars (0.625 acre, 1 bldg.)	54
V–Kan–426E	VA Center, Wadsworth (10 acres)	n.c.
D–Kan–452C	Hutchinson Air Nat'l Guard Base, Hutchinson (1,821.35 acres)	7,169
V–Minn–402L	Ft. Snelling Hosp. Res., Minn. (141.14 acres, 55 bldgs.)	654
I–Minn–455	Grand Rapids Housing Area, Grand Rapids (5.7 acres, 18 bldgs.)	361
G–Minn–466A	Fed. Courts Bldg., St. Paul (0.80 acre, 1 bldg.)	1,606
G–Minn–471	U.S. Post Office ,Hopkins (0.5397 acre, 1 bldg.)	120
D–Minn–472	Bagley Gap Filler, Clearwater Co. (0.45 acre, 1 bldg.)	51
D–Minn–473	Elbow Lake Gap Filler (0.63 acre, 1 bldg.)	47
D–Minn–474	Gap Filler Annex, Askov (0.36 acre, 1 bldg.)	74
D–Minn–475	Gap Filler, Northfield (0.45 acre, 1 bldg.)	70
V–Mo–421–I	VA Hosp. Res., Jefferson Barracks, St. Louis (11.81 acres)	n.c.
D–Mo–427C	Ft. Crowder, Mo. (Telephone cable)	n.c.
D–Mo–427F	AF Plant, Neosho (227.9 acres)	10
G–Mo–449A	Fed. Bldg., Kansas City (Portion of Bldg.)	n.c.
G–Mo–506	9405 Holmes, Kansas City (2 bldgs.)	n.c
D–Mo–511	Kirksville AF Sta., Adair Co. (62 acres, 42 bldgs.)	2,165
D–Mo–516	Nike Hercules Site, Pacific (8.24 acres, 5 bldgs.)	292
D–Mo–520	Nike Battery Site, Lawson (18.72 acres, 13 bldgs.)	1,166
D–Mo–522	Nike Site, Pleasant Hill (16.84 acres, 15 bldgs.)	1,173
D–Neb–442–II	Lincoln AFB, Nebraska (398.64 acres, 2 bldgs.)	11,272
D–Neb–446A	Omaha AF Sta., Omaha (40.71 acres, 35 bldgs.)	1,204
D–Neb–470B	Offutt AF Fac. Site 1, Mead (238.57 acres)	847
G–Neb–492	Federal Bldg., Norfolk (0.13 acre, outlease only)	(a)
D–ND–448	Alexander Gap Filler Annex Alexander (2.07 acres, 2 bldgs.)	71
D–ND–450	Valley City Gap Filler Annex, Valley City (3.30 acres, 2 bldgs.)	42
D–ND–451	Regan Gap Filler Annex, Regan (0.47 acre, 2 bldgs.)	53
G–ND–452	U.S. Post Office, Williston (0.40 acre, 1 bldg.)	145
D–SD–426WW	Ellsworth AF Missile Site, No. 1, (118.31 acres includes 57.45 acres easement, 2 bldgs.)	21,149
D–SD–426XX	Ellsworth AF Missile Site, No. 2, (333.52 acres, includes 275.12 acres easement, 2 bldgs.)	18,785

GENERAL SERVICES ADMINISTRATION—PROPERTY MANAGEMENT AND DISPOSAL SERVICE—Continued

[Surplus real property, custodial (NIR) reserve real property, and related personal property for disposal under provisions of the Federal Property and Administrative Services Act of 1949, as amended—on hand as of Dec. 31, 1969]—Continued

[In thousands of dollars]

GSA control No.	Property	Reported cost
D-SD-426YY	Ellsworth AF Missile Site, No. 3, (277.76 acres, includes 220.02 acres easement, 2 bldgs.)	23,874
D-SD-462A	Gettysburg AF Sta., Gettysburg (45.01 acres, includes 1.99 acres easement, 34 bldgs.)	2,138
D-SD-475	Pickstown AF Sta., Pickstown (21.08 acres, 7 bldgs.)	1,031
Total, region 6 (36 cases)		113,253
	REGION 7—FORT WORTH	
D-Ark-440M	Fort Chaffee (16.18 acres)	188
V-Ark-445D	VA Hosp., North Little Rock (135.47 acres)	34
G-Ark-506	Post Office, Pine Bluff (0.42 acre, 1 bldg.)	131
N-La-453D	Naval Hq. New Orleans (20.325, 31 acres)	1 2,208
GN-La-453-I	Old Post Office, Naval Support Activity, New Orleans (1 bldg.)	n.c.
N-La-466C	Former Naval Ammunition Depot, Belle Chasse (Minerals)	n.c.
D-La-488C	Houma AF Sta., Houma (1.01 acre, 1 bldg.)	23
N-La-507	U.S. Naval Res. Trng. Center, Baton Rouge (1.09 acres, leased land, 3 bldgs.).	223
G-La-508	Doiron Bldg., Baton Rouge (Office space for rent)	n.c.
G-Okla-504	412 West First St., Claremore (520 Sq. Ft. leased space)	n.c.
W-Tex-204	Camp Maxey, Lamar Co. (10 acres)	(a)
D-Tex-449	Duncanville Army Air Def. Site, Duncanville (0.179 acre)	N.C.
D-Tex-474AR	Ft. Sam Houston, Texas (22 acres)	N.C.
V-Tex-520A	VA Hospital, Waco (223 acres, 31 bldgs.)	52
D-Tex-527D	Amarillo AFB, Amarillo (3,008.56 acres, 709 bldgs.)	64,580
D-Tex-589J	Camp Bowie, Brownwood (3.61 acres)	79
GR-Tex-604M	Atlas Missile Site, Dyess AFB (17.56 acres, 1 bldg.)	(a)
GR-Tex-604-0	Atlas Missile Site, Corinth (27.24 acres, includes 12.86 acres easements, 5 bldgs.).	825
N-Tex-608F	U.S. Naval Aux. Air Sta., Outlying Field No. 55, Kingsville (Mineral estate).	N.C.
I-Tex-822	Corrigan & Timpson Substa. & Center Switching Sta., Polk, Shelby & Angelina Counties (383.15 acres, includes 380.54 acres easements).	647
U-Tex-832	FAA Flight Service Sta. Junction (3 bldgs.)	38
U-Tex-833	"H" Marker Facility, Big Springs (0.92 acre—leasehold, 2 bldgs.).	19
U-Tex-834	VORTAC Fac., Clint (0.82 acre, 1 bldg.)	47
GD-Tex-835	Hughes Strut Plant, Houston (9.306 acres, 3 bldgs.)	1 194
D-Tex-836	Morgan Point Field Office, Morgan Point (10.05 acres)	10
U-Tex-837	VOR Fac., Somerset (1 bldg.)	41
U-Tex-839	AC & W Site, Amarillo AFB (1 bldg.)	51
Total, region 7 (27 cases)		69,390
	REGION 8—DENVER	
D-Ariz-437Y	Davis-Monthan AFB, Tucson (50 acres)	5
J-Ariz-505	Fed. Youth Camp, Tucson (25 bldgs.)	275
D-Colo-460PP	Lowry Comm. Fac. Annex, Lowry AFB, Denver (27.16 acres, 2 bldgs.).	36
D-Colo-460XX	Lowry AFB (43.47 acres)	5
D-NM-430JJ	Walker AFB, Roswell (319 acres, 802 bldgs.)	8,894
E-NM-488	Camp Luna Job Corps, Las Vegas (36.14 acres, 26 bldgs.)	1,138
D-Utah-421K	Hill AFB, Ogden (61.88 acres)	6
GR-Utah-431R	Steel Tanks, Monticello	16
U-Utah-489	VTAC Site, LaSal (2 bldgs.)	53
V-WYO-420	VA Center Res., Cheyenne (30 acres)	n.c.
G-WYO-488	PO Building & Site, Worland (0.32 acre, 1 bldg.)	67
G-WYO-491	Post Office, Sheridan (0.36 acre, 1 bldg.)	185
Total, region 8 (12 cases)		10,680
	REGION 9—SAN FRANCISCO	
D-Cal-437-C	Air Force Plant No. 14, Burbank (502.88 acres, includes 284.53—easements, licenses and permits, 80 bldgs.).	1 41,349
GR-Cal-446A	Linda Vista housing project, San Diego (14.24 acres)	17
I-Cal-488C	Yosemite National Park (7 bldgs.)	(a)
D-Cal-500F	Fort Ord, Monterey Co. (0.78 acre)	(a)
D-Cal-503E	Oakland Army Base, Oakland (3.365 acres, includes 0.866 easement).	155
U-Cal-512J	Edwards RTR, Edwards AFB (4 110-foot towers)	4
V-Cal-514H	VA Center Reservation, Los Angeles (21.8 acres, 6 bldgs.)	374
D-Cal-520A	Army Res. Center, Lompoc (2.66 acres, 1 bldg.)	18
N-Cal-579B	Naval Depot, Tiburon (5.3 acres)	14
N-Cal-597A	Marine Corp Air Fac. Santa Ana (1.50 acres)	3
N-Cal-694A	Naval Retraining Command, Camp Elliott (2,582.24 acres)	30
D-Cal-747	Benicia Arsenal Mil. Res., Benicia (35.25 acres, plus railroad trackage).	1 1,018
D-Cal-772	El Segundo Storage Annex, El Segundo (59.06 acres, 8 bldgs.)	1 13,256
GJ-Cal-786	U.S. Penitentiary, Alcatraz Island, San Francisco (22.5 acres, 25 bldgs.)	1,675
N-Cal-789	Preble-Sachem housing project, San Diego (33.11 acres)	85
D-Cal-834	Camp San Luis Obispo, San Luis Obispo Co. (1,915.18 acres, 1 bldg.)	144
W-Cal-872	Donner Summit Homing (H) Fac., Placer Co. (1 bldg.)	1
G-Cal-878B	Old Mint Bldg., San Francisco (1.09 acres, 1 bldg.)	2,431
D-Cal-893	Missile Intersite Comm. Cable, AF Fac. C, Butte, Sutter, Placer, and Yuba Co. (74.274 acres easements).	691
W-Cal-899	Beacon Fac., Los Alamos (0.115 acre—leased)	2
T-Cal-917	Telephone line #12033, Point Arena, Mendocino Co.	6
D-Cal-927	Harvey Aluminum, Inc., Torrance, (related personalty)	1 38,435
U-Cal-939	Pescadero IFSF Fac., San Mateo Co. (332.4 acres, leased land, 2 bldgs.)	167
D-Cal-947	Whittier Narrows flood-control basin, Los Angeles (4.82 acres.)	11
U-Cal-953	Las Cruces Beacon Fac., Santa Barbara (0.23 acre)	2
N-Cal-960	Santa Cruz Sta. Site, Santa Cruz (0.4 acre)	(a)
C-Cal-961	Santa Catalina Radar Sta., Santa Catalina Island (2 bldgs.)	91
A-Cal-962	Refrigeration and heat pump plant, Squaw Valley	750
D-Cal-965	Petaluma Creek Channel, Sonoma Co. (30.44 acres)	(a)
D-Haw-403D	Fort Ruger Mil. Res. Oahu (1 acre)	(a)
N-Hawaii-475	Manana Veterans Housing Area, Manana, Ewa, Oahu (20.349 acres, 31 bldgs.)	880
D-Nev-402B	Stead AFB, Washoe Co. (105.54 acres, 286 bldgs.)	3,630
GR-Nev-402B	Stead AFB, Washoe Co. (28.54 acres)	(a)
GR-Nev-408A	Magnesium Site, Henderson (4.64 acres)	(a)
I-Nev-410	Las Vegas Vacant Land, Las Vegas (0.15 acre)	(a)
W-Nev-448	"H" Fac., Tonopah (Power line)	4
D-Nev-458	Winnemucca AF Sta., Humboldt Co. (75.28 acres, 56 bldgs.)	3,874
Total, region 9 (37 cases)		109,128
	REGION 10—AUBURN	
U-Alas-419C	FAA Sta., Cape Yakataga (158.13 acres, 4 bldgs.)	345
D-Alas-432F	Fort Richardson, Anchorage (118 acres)	2
N-Alas-433A	Amaknak Island, Unalaska Island, and Hog Island (5,120.6 acres, 285 bldgs.).	5,835
A-Alas-495	1550 Gillam Way, Fairbanks (0.432 acre, 1 bldg.)	53
I-Alas-497D	Port of Whittier, Alaska (141.05 acres, 77 bldgs.)	23,526
G-Alas-596	Post Office, Courthouse and Jail, Cordova (1 bldg.-portion)	n.c.
G-Alas-597	Post Office and Courthouse, Wrangell (1 bldg.-portion)	n.c.
G-Alas-598	Post Office, Courthouse and Jail, Ketchikan (1 bldg.-portion)	n.c.
G-Alas-599	Post Office and Courthouse, Nome (1 bldg.-portion)	n.c.
D-Alas-603A	Seward Army Recreational Site, Seward (0.66 acre)	5
I-Alas-610	Terminal Reserve, Seward Waterfront, Seward (37.9 acres, includes 0.25 acre easement).	(a)
I-Alas-615	False Pass Airport, Unimak Island, Aleutian Islands (201.05 acres).	n.c.
F-Alas-618	PHS, Alaska Native Med. Center & Area Office, Anchorage (telephone system).	23
D-Alas-619	ACS Comm. Sta., Nome (13.6 acres, including 3.47 acres easements).	n.c.
D-Ida-457	Mountain Home AFB, AF Fac. S-3, Mountain Home (255.03 acres, includes 255.03 acres easements).	n.c.
D-Ida-468	Mountain Home AFB, AF Fac. S-2, Grandview (121.62 acres, includes 1.62 acres easements, 3 bldgs.)	20,787
I-Ida-468A	Mt. Home Missile Site, Grandview (1 bldg.)	38
I-Ida-470	Mann Creek Project, Weiser (100 acres)	11
G-Ida-472	Post Office Building & Site, Lewiston (0.4 acre, 1 bldg.)	243
G-Mont-414A	Border Sta., Roosville (1 bldg.)	18
A-Mont-520	Administrative Site, Columbus (10 acres)	10
A-Ore-535	Spruce Production Corp., Railroad Right-of-Way, South of Waldport (3.575 acres).	(a)
U-Ore-538A	Coast Guard Sta., Coos Bay (0.8 acre, 2 bldgs.)	32
D-Ore-561	Port Orford Gap Filler Annex (PIN 4432) (12.86 acres, includes 12.36 acres easements, 2 bldgs.)	61
T-Ore-575	Desdemona Sands Light Res., Clatsop Co. (10 acres)	n.c.
I-Ore-585	57KV Salem-McMinnville Transmission line, Oregon City-Salem (0.005 acre, transmission line).	198
D-Ore-586	Baker AF Sta., Ore. (38.64 acres, 1 bldg.)	182
A-Ore-589	Hemlock St. Residences, Powers (0.155 acre, 2 bldgs.)	5
I-Wash-401H	Ephrata Army Air Base, Ephrata (8.49 acres, 2 bldgs.)	16
V-Wash-474J	VA Hosp., Walla Walla (1 bldg.)	26
I-Wash-487A	Olympic Nat'l Park, Clallam Co. (2 bldgs.)	30
D-Wash-513H	Larson AFB, supporting TVOR Annex & Outer Marker Annex, Moses Lake (3,809.36 acres, 975 bldgs.)	39,007
G-Wash-522G	Auburn Depot Mil. Res., Auburn (8.76 acres)	143
GR-Wash-662	Mud Mountain Dam Project, Washington (638.1 acres)	4
N-Wash-665E	Bremerton Annex Spur, Shelton-Bangor-Bremerton Naval Railroad, Bremerton (2.928 acres, includes 0.37 acre easements, 2 bldgs.)	74
N-Wash-666C	Navy Eastpark Defense Housing Project, Bremerton (17.6 acres)	135
N-Wash-673	Manchester Annex, Naval Supply Depot, Seattle (111.7 acres, 27 bldgs.)	451
C-Wash-685	U.S. Science Exhibit, Seattle (6.5 acres, 7 bldgs.)	6,569
D-Wash-701B	Nike-Ajax Site, Seattle (0.93 acre)	1
D-Wash-704	Nike-Ajax Site, Seattle (61.12 acres, includes 61.12 acres easements)	30
D-Wash-751	Northwest Relay & Radio Receiving Sta., Lynnwood (5.00 acres)	2
B-Wash-754G	Horn Rapids Triangle, Richland (85 acres)	9
B-Wash-754J	Portion of Lot 2 Plat of Richland, Richland (2.2 acres)	1
B-Wash-754K	Three Parcels of Land Located near Richland (2.07 acres)	(a)
D-Wash-759	Fairchild AFB Fac. S-4 & Radio Relay Annex #4, Sprague (239.5 acres).	1
D-Wash-760	Fairchild AFB Fac. #5 & Radio Relay Annex #9, Lamona & Harrington (231.96 acres easements).	204
D-Wash-761	Fairchild AFB Fac. S-6 & Radio Relay Annex #2, Davenport & Waukon (241.66 acres easements).	83
D-Wash-762	Fairchild AFB Fac. S-7 & Radio Relay Annex #9, Wilbur & Creston (243.9 acres).	252
D-Wash-763	Fairchild AFB Fac. S-8 & Radio Relay Annex #7, Egypt & Davenport (230.04 acres easements, 1 bldg.).	42
D-Wash-764	Fairchild AFB Fac. #9 with Radio Relay Annex #1, Reardon (104.62 acres easements & 138.49 acres leased).	49
D-Wash-765	Intersite Cable Line for Larson AF Facilities S-1, S-2, and S-3, Moses Lake and Othello (42.72 acres easements).	11

GSA control No.	Property	Reported cost
D–Wash–766	Larson AFB, Fac. S–1, Moses Lake (251.92 acres easements)	5
D–Wash–770	Larson AFB AF Fac. S03, Othello (258.16 acres easements)	12
P–Wash–781	Post Office—Fed. Bldg., Port Townsend (1 bldg.)	1
U–Wash–784	Point No Point Light Sta., Hansville (0.59 acre)	(1)
I–Wash–788	Portion of Covington Tap to Chief Joseph-Snohomish #1 line, Wash. (4.1 acres right-of-way).	4
I–Wash–788A	Covington-Renton Transmission Line (116.8 acres)	134
I–Wash–791A	Columbia Basin Project, Moses Lake (16 bldgs.)	36
I–Wash–791B	Columbia Basin Project, Moses Lake (25 bldgs.)	122
I–Wash–796	Mt. Vernon Radio Sta. Site, Skagit Co. (0.01 acre, 1 bldg.)	13
	Total, region 10 (60 cases)	98,841
	Total all regions (374 cases)	737,844
	Industrial (30 cases)	256,084
	Nonindustrial (344 cases)	481,760

[1] Industrial.

GENERAL SERVICES ADMINISTRATION, PROPERTY MANAGEMENT AND DISPOSAL SERVICE, HOLDING AGENCY CODES

A GSA control number is assigned to each report of excess real property. The control number in each case shows the holding agency code letter, the State, Territory or Insular Possession in which the property is located, and the serial number. (e.g. I–Okla-405) Holding agency codes are as follows:

Code:

Departments and Agencies

A—Agriculture, Department of.
B—Atomic Energy Commission.
C—Commerce, Department of.
D—Defense, Department of (except Navy).
E—Executive Office of the President (including emergency agencies).
F—Health, Education, and Welfare, Department of.
G—General Services Administration.
H—Housing and Urban Development, Department of.
I—Interior, Department of.
J—Justice, Department of.
K—Civil Service Commission.
L—Labor, Department of.
M—Federal Maritime Commission.
N—Navy, Department of (including Marine Corps).
O—Selective Service System.
P—Post Office Department.
S—State, Department of.
T—Treasury Department.
U—Transportation, Department of.
V—Veterans Administration.
W—Federal Aviation Agency.
(Control Nos. 401 and above for properties reported excess prior to 7/1/67.)
Z—All other Agencies.

Wholly owned Corporations

R—Reconstruction Finance Corporation.
Y—All other Wholly-owned Corporations.

11 BUSHES IN VIETNAM

Mr. GOODELL. Mr. President, last week in hearings on Vietnam before the Senate Foreign Relations Committee, I testified on "the things that seem and those that are" in the Vietnam war and U.S. policy toward the war.

There are countless examples of things that "seem" and "are" in Vietnam. Some repel the human conscience, including military injustices between the security of the military base and the risks of frontline operations. Some grate the human intellect, including discrepancies between information from the base and facts from the field. All make the human heart sicker as war goes on.

"11 Bushes" are U.S. infantry riflemen. They put life on the line each day in Vietnam. They are mostly draftees. They have come to call themselves "grunts": GI slang for a frontline soldier in Vietnam.

I have warned against "cosmetizing" the war. Decosmetizing is the effect of the article, "Closeup of the Grunt—The Hours of Boredom, the Seconds of Terror" as it focuses on the dichotomy which exists between the men in the military and the kids in the war; the majority in the rear and the minority in the front; the comfortably bored and the miserably scared; the soldiers who had heeded their country's call and had become one of the military's "own" (the Army protects its own, they said), and the soldiers who had pretended not to heed it; the living and the dying. Although the Army claims ignorance on the matter, grunts in several line companies estimated that 80 to 90 percent of the soldiers in their ranks were draftees and that from 20 to 40 percent of them had had some college.

I ask unanimous consent that this article by James Sterba be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CLOSE-UP OF THE GRUNT—THE HOURS OF BOREDOM, THE SECONDS OF TERROR

(By James P. Sterba)

SAIGON.—*"When we were fighting up north, we got ambushed by a whole battalion of N.V.A. [the North Vietnamese Army] and there was so much stuff flying you couldn't tell if you killed anyone or not. But another time, I was on a patrol with a buddy and we stopped at this fork in the trail and we started smoking cigarettes and joking, and two gooks walked right down the trail at us. It was like time stood still. We looked at them and they looked at us and then we blew their ——— away. You walk up and see them dead, that you just killed them, and you say, 'Goddamn, I just killed that man.' But then you think, 'Well, Jesus Christ,' and you look at his gun and you know he'd have done the same thing to you if he'd had the chance. Before I came over here, I thought to myself, 'Damn, could I kill a man?' Well, you learn fast in Vietnam."*—SPECIALIST 4 HERBERT MCHENRY, 21 years old, from Akron, Ohio—a grunt. (Grunt: G.I. slang for frontline soldier, Army or Marine.)

If you hung around enough at the muddy firebases and in the jungles with the kids who pulled the triggers for the old men who ran this war in 1969, you sometimes got the feeling between the hours of boredom and the seconds of terror and the daily entrances by jet and nightly exits by aluminum box, that the kids could work things out with the kids on the other side. That if the wires from the Pentagon to the South Vietnam command nerve centers and from Hanoi to the Cambodian caves had all of a sudden fallen still, the kids sent here to kill each other might have all stood up in the sun, dropped their guns and started picking flowers and crying—like a scene out of "Elvira Madigan."

Of course, that didn't happen in 1969, or in the opening days of 1970, and it would undoubtedly never happen in a modern war. But in 1969, Vietnam seemed like that kind of a war. It was not a war of national hate, but a hated, dreary struggle. All the early romance and idealism were gone. Their flickering lights were snuffed out on June 8, when President Nixon announced withdrawal in a statement at Midway that must stick in the minds of every mother and father whose son has since left home for his year of war.

The touted air cavalries had gotten their big headlines years ago, swarming like locusts up the Anlao, the Iadrang and a hundred other valleys. The Marines had made their amphibious assaults and had fought their Khesans. The airborne paratroopers had already saved both Hamburger Hill and the American Embassy, and the thought of saving them again was somewhat distasteful. The big medals had been distributed too often already and nobody came to the ceremonies any more to take pictures. The colonels who had begged to come here in 1965 to get their stars had already got them or been washed out.

Now, the tactical operations centers and headquarters were airconditioned and computerized and filled with middle-aged career men who occasionally caught colds and wrote memos suggesting the cooling systems be turned down. The sergeants pushing booze at base bars were making more money than the American generals pushing the war—but less money than some South Vietnamese generals pushing anything they could get their hands on. The war was still costing more than $500 a second. University extension courses were being taught in classrooms on huge, paved and sometimes lawned rear bases, where old sergeants were getting tougher and tougher about unshined boots.

At these big bases, jogging was on the increase, along with sunbathing and softball tournament. At Tansonnhut in November, the Army announced the formation of "Armed Forces Theater Vietnam, a touring military production group" that kicked off the 1969–70 theatrical season with "You're a Good Man, Charlie Brown."

Worlds away from all this, however, amid the mud and the dust and the mosquitoes and the blood and the dead and the dying, the grunts—it was a proud name they had chosen (from the grunting sounds made by foot soldiers under heavy field packs)—were still getting their arms and their legs blown off. But in 1969 they were not the same grunts as before—the ones who filled the all-volunteer units a couple of years ago, not the gung-ho enlistees and toughened three-war sergeants whom information officers cited in 1966 as evidence of the professionalism of the American military machine. These grunts did not come from the ranks of the post-World War II silent, or Jack Kerouac's fifties, or the concerned early sixties, or even the committed mid-sixties. All those had come and gone back and joined the American Legion or the real silent majority—the one that keeps the florists in money on Decoration Day. Some of the men of early Vietnam, the "lifers," were back for their fifth and sixth tours, but only a relative few—the most compassionate and the most restless—saw jungle rot and blood instead of charts and cables.

No, these grunts were somehow unlike those others. These grunts were the class of 1968—they had come out of that America some of their commanders had seen only from the windows of the Pentagon. They were

graduates of an American nightmare in 1968 that stemmed mostly from the war they had now come to fight—the year of riots and dissension, of assassinations and Chicago, the year America's ulcer burst.

If they had not been in Chicago, they had certainly heard about it or watched it on television. If they hadn't fought the draft, they were aware that it was being fought. If they hadn't demonstrated against the war, they knew people who had. If they were too young, or too busy, or too far removed from the vocal and violent disputes over the war, they were at least aware of them. Many of them, probably the majority, had not physically committed themselves to either polarized side in the division, but even those in high school were well aware of the sides—as those before them had not been.

Some of them had been much too young to pay any attention to the preludes to that year. Many of them were trying out for their high-school football teams when the Tonkin Resolution was signed, in college some were parlaying their grades into that magical marking on their draft cards—2 S, student deferment.

But before they knew it, both high-school football and college restlessness were over, and the process of unnatural selection that would determine who fixed helicopters and filed papers in the rear and who "humped the boonies" (or "beat the bush" looking for Vietcong) had begun. If they were high-school graduates and naive, or high-school dropouts and innocent, or if they were college students very much concerned and antiwar, they wouldn't enlist, the highschoolers would mostly just put off their decisions about the military, thinking of college or a job. The collegians would think that since they were against the war and the military-industrial complex anyway, but didn't quite have the conviction for jail or exile, it was best to let the "green machine" swallow them up. One couldn't possibly volunteer to be a part of it. One had to be consistent, so you let the military take you.

What many of them didn't know was what the Army would do with them as draftees. It would make most of them (including most of the college men, regardless of what it had said about giving the collegians jobs to fit their abilities) grunts. And the arithmetic was there on what happened to grunts as they entered basic training: 15,000 dead and 45,000 wounded in 1968. The dead and wounded were not file clerks or grease monkeys or radio repairmen. The dead and wounded were grunts, overwhelmingly.

The members of the class of 1968 went through advanced infantry training at places like Fort Polk, La., or the "Shake and Bake" school for instant noncommissioned officers at Fort Benning, Ga. Their M.O.S. (Military Occupational Specialty) would be stamped on their records: 11B, which meant infantry rifleman.* But most of them would have no real idea of what it meant to be an "11 bush," even after they stepped off the troop planes at Bienhoa and Camranh Bay and the data-processing machines were matching them with units. Many were scared when they were trucked or flown to their new units' headquarters, but they didn't pay much attention when, during those first days of "in-country processing," the re-enlistment sergeants gave their spiels about not having to stay "out there" very long if they would only sign up for another three years. If they signed, then after only eight months in the Army, four or five of which had already been spent in training in the States, they could go home for a month and then come back and finish their year in Vietnam as a file clerk or a security guard.

It wouldn't be long, however, before many of them would be trying to remember what the re-enlistment sergeant had said.

One of their first tasks was learning grunt language. As replacements, they weren't new members of the unit, they were "cherries." They learned that grunts never die, they get "greased." They never said yes, they said "That's a Roge," or "Roger that. Their opponents were not the enemy, they were "gooks" or "dinks." In fact, to many grunts any Vietnamese was a "gook." Grunts would not put on their equipment, they would "saddle up." They didn't stage ambushes, they "blew bushes." They "humped the boonies" or "busted bush." Some of them never looked for the enemy, they went "Chuck-hunting." (Vietcong="Victor Charley"="Charley"="Charlies"="Chuck.")

"My second day out, we blew a bush and four gooks were entirely wiped out. First dead ones I saw. You get a little sick. I ain't never shot one. Most of the time, you don't know who killed them 'cause everybody's just firing and you can't see them anyway. We went into a base camp once and this gook in a bunker shot up two guys in my platoon and our medic. Just killed them like that and he got away. Funny feeling. Just like that, they were dead. It's hard to say how you feel except scared. You don't really get mad. You just think it could be you."

Sgt. Nicholas Francic was 21 years old and had spent the first 11 months of 1969 on the line with the First Infantry near Dautieng as a draftee from Pittsburgh. With two weeks left in Vietnam, he was thinking about going home to "the world."

"I don't think I'll talk about it when I get back to the world because it would just be so hard to believe. Before I came over here, guys would tell war stories and I'd say, 'Bull—just war stories.' But now I'd believe anything anybody ever told me about it over here. I don't think anybody could believe half the stuff that's going on here. I'm glad I'm gettin' out. I don't know what I'd do if I was just gettin' here now.

"When I first got here, I didn't see a base camp for like four months. Just jungle. Sleeping on the ground every night. Once you got jungle rot and ringworm and rashes, you couldn't get rid of them 'cause you were in the same conditions every day. They try and give you clean clothes—like socks—but you just put them on and five minutes later you're back in the mud again. If anybody had told me three years ago I'd be doing this stuff, seeing all this stuff—the dead guys and all—I'd have told them they were crazy. I didn't think I could ever do it. But, you'd be surprised what you can do out here."

Pfc. M. A. Dirr, a 21-year-old Marine from Cincinnati, lay on a bed in a ward room on the U.S.S. Repose, a hospital ship, off the coast of Danang in September. The drugs made him feel "weird," he said.

"I don't know whether it was an R.P.G. [rifle-propelled grenade] or one of our tanks. It was dark and some other guys [Marines] were about 50 meters away and they didn't know it was us and they opened up on us."

Was it worth it?

"Boy, after that, I don't see any sense in fighting over here," he said. Dirr wouldn't fight any more. At the end of his bed where his feet were supposed to be, there was only one lump in the sheet—his contribution to peace with honor having been one foot.

The officers' club bar next to the handball building at the American Division headquarters in Chulai is a thatched-roof structure that looks as though it had been franchised by Trader Vic's. Its open-air porch overlooks the jagged, rock-and-sand shore of the South China Sea, panning a postcard view. At one end of this view, across a gully, is a helicopter landing pad with a large red cross painted in the middle. Occasionally, between sips on rum and Cokes or gin and tonics, a bar visitor would see a helicopter settle down on the pad and five or six young men in bluish-green shirts jump out to it and pull off a stretcher holding a young wounded soldier and take him into the adjoining surgical ward. From the bar, however, it was out of focus and looked like some sort of dance or ritual.

On some nights during the movies at the bar, the officers would have to pull their chairs closer to the speakers because the helicopters coming in across the gully were making so much noise.

"You don't want to ride in that one," said a young radioman in a makeshift air-control tower at Landing Zone Baldy southwest of Danang in August, nodding to a helicopter as he popped the top on a Pepsi and petted Whore, his dog.

"That's the dead-guy run."

Maybe it was true that there were no real fronts in Vietnam, but there were definite levels of safety. From America, it was all just Vietnam, that tiny strip of Southeast Asia that had swallowed up so much money, life and will. If you were a soldier just coming to Vietnam was bad enough—where in Vietnam seemed irrelevant, until you get there.

The 36-square-mile Army headquarters at Longbinh, for example, was safe, really safe, even though it was hit by rockets occasionally and somebody was killed or wounded. The 50,000 men who spent their year at Longbinh were known to the grunts as "R.E.M.F.'s" (rear-echelon mother—). R.E.M.F.'s, the grunts said, were the ones who would go home being for the war and telling war stories, 99 per cent of which would be baloney. The biggest battles at Longbinh were fought between the M.P.'s and drunken soldiers, and there were far more casualties from accidents there than from rockets.

Division headquarters was also the very rear. It caught rockets, too, but the handball courts, charcoal pits, swimming pools, bars, striptease dancers, mattresses, slot machines, refrigerators and hot and cold running water made up for them. If the war was anything at these places, it was boring.

There were many more soldiers at these big bases than anywhere else in Vietnam, and most of them were career officers and noncommissioned officers and enlisted men with special training. You had to look for draftees at these places and, when you found them, chances were it was because they had extended their time in Vietnam (a choice rewarded by a shorter term in the Army), because they had a "critical skill" (like churning out Army press releases), because they had some medical defect or because they had re-enlisted. There were many young dissidents in the rear in 1969, and although a few were outspoken publicly, they had to be extremely careful because the threat was always there that they would be jerked out of their relative security and transferred into the jungles, enlistees or not. In 1969, the career Army ruled the rear.

But as you went toward the battlefields—from the division to the brigade to the battalion to the company—the proportions reversed. At the company level in 1969, enlistees were rare, black faces were much numerous, and draftees were everywhere. It was a rather neat dichotomy: between the men in the military and the kids in the war; the majority in the rear and the minority in the front; the comfortably bored and the miserably scared; the soldiers who had heeded their country's call and had become one of the military's "own" (the Army protects its own, they said), and the soldiers who had pretended not to heed it; the living and the dying. Although the Army claims ignorance on the matter, grunts in several line companies estimated that 80 to 90 per cent of the soldiers in their ranks were draftees and that from 20 to 40 per cent of them had had some college.

* The number of 11B's is a classified strength figure and not available. There are also 11C's (mortarmen), 11H's (machinegunners), 11E's (tank crewmen) and 11F's (line intelligence men), most of whom are grunts. But 9 out of 10 Army grunts are 11B's.

"That's all they seem to do any more with college guys is make them 11 bushes," said Specialist 4 Joseph Whalen, a platoon leader and graduate of Boston College with a degree in political science.

Once you got down there on the ground in the boonies among the lowest form of military might—the 11 bushes—it was amazing how much your values changed. Despite what all the philosophers and politicians and social scientists said, you were an animal with one basic instinct dominating all others: survival. The grunts have a phrase for it: "Cover your ass." Live. And it is equally amazing how difficult it was to think or talk about politics, philosophy, the Old—let alone the New—Mobe, when you were bothered with staying alive. It didn't matter whether you were from Harvard, Columbia, Northeastern, Oklahoma State, A & M or P.S. 23, you still had to stay alive for 365 days and New Left Notes and the old collegiate concern weren't worth a damn. Dry socks, hot meals, mosquito repellent and a clean M–16 rifle were far more important.

It would take a book—perhaps less by a gifted writer—to describe the dehumanizing experience of being shot at. The barricades and billyclubs and tear gas at Columbia and Chicago seem so cheap after that first shot zings over your head. Absolutely everything becomes at once irrelevant except survival. If there was ever an event that "blew your mind," being shot at was it. After it, you were not the same person. Those who had been through the experience would warn others away from it, but somehow think less of those who had not had the experience.

"I don't really have anything against demonstrators, or blame people for not coming here," said Lieut. James Friedman, 21, of Burlington, Iowa, during Christmas dinner at Landing Zone Professional west of Chulai. "But after you get in the Army and are sort of jerked over here and have been through some bad stuff, it's almost like being older than those people."

To live, if you were a grunt, you had to shoot back. You had to become a killer, or at least a potential killer in the most immediate sense. Thus, you could still find a lot of tough guys out there in 1969. And if you stuck a microphone in their faces, they'd say, "Bomb Hanoi" or "Invade the North" or "Nuke the gooks." And why not? When your life was on the line, you were for everything that helped preserve it right at that instant. Many of the concerned grunts, before they got here, had serious qualms about the use of napalm. But, now, in the middle of combat, they would tell you there was absolutely nothing in the world more beautiful than the sight of those silver canisters tumbling end over end from a jet bomber and exploding in a huge ball of red flames and black smoke right where the gooks were shooting from. They felt like cheering, and sometimes they did.

Some grunts would even say that they liked to kill. "I've killed 18 myself," said Sgt. Eddie Allen, a 23-year-old 75th Infantry ranger from Muncie, Ind. "I don't talk about it much, but I don't mind it. In fact, I sort of enjoy it."

Shy, quiet and friendly S. Sgt. Patrick Tadina, 27, from Honolulu, had spent 44 months in Vietnam by 1970, mainly, he said, because he didn't know what else he could do. He had become one of the most decorated enlisted men of the war: two Silver Stars, two Vietnamese Crosses of Gallantry, five Bronze Stars all with "V" for valor, and three Purple Hearts. Tadina said he didn't particularly like killing people, just outsmarting them. His personal body count was 109.

It was during the times when death was close—when an arm or a leg had to be lifted by a crying friend out of the dirt and placed on a litter next to a young soldier yelling, "Jesus Christ, oh, my God, it hurts, it hurts, it hurts," and the Medevac chopper is still five minutes away as the medic's stained fingers fumble with the needle and the morphine bottle—that they all looked 12 years old.

It happened daily in 1969. Toward the end of the year, an average of 14 were killed and 100 wounded per day.

Pfc. Dennis Storey, the platoon humorist, had been the point man that day in November just east of the Dongnai River when his platoon, of the First Battalion, 28th Infantry, First Infantry Division, was ambushed. The VC had thrown a switch detonating a Claymore mine as the platoon walked by it. It was so quick. Bang, and two guys didn't have any legs any more, and all the rest put their heads in the dirt and put their M–16's up over their helmets and pulled the triggers until they heard the VC's AK–47's stop cracking. Then silence, some yelling, a radio call for a Medevac. Storey had been lucky. He had walked past the mine before it exploded.

"Wasn't scared a bit," he said later. "You see, I know I'm gonna die before my year is up."

Sometimes the silliest things would happen out there in the boonies where the war was supposed to be such serious business. The battalion officers would spend hours in front of their maps, charting the next day's operation. The communications codes were set, the various coordinates were plotted, the strategy unveiled in sessions that reminded one of the pregame locker room. These meetings would end and the officers would all emerge into the sun and say nothing about the plan. It was all on a "need-to-know basis." It was so hush-hush at times that you felt they must all work for the C.I.A.

The next morning, as the countdown grew short, the plotters would appear nervous as they briefed the company officers. But when the company officer spread word to the grunts to "saddle up," the grunts would mope along, scowling and muttering about playing another "damned lifer game," the kind they'd been through dozens of times before, the kind they were still dirty and tired from doing a few days ago.

But for the planners, these productions were exhiliarating, intricate affairs, in which the power of the huge American military might was most visible—all that fire power, that "air-mobility."

Then the grunts would move out, perhaps on foot, or by truck, or by the greatest kind of John Wayne moveout the Army had, the "combat assault" or "eagle flight." And the battalion commanders and majors would climb into their "Charley bird" (command and control helicopter), and the artillery support would be poised, the Cobra gunships ready to scramble.

As the grunts neared the scene of their secret search for "Charley," the colonels would be hovering above in the cool morning air, hoping for a "good contact." Then the grunts, if on an eagle flight, would be dropped in and quickly fan out as the radio networks were checked and everyone waited to see whether or not the "L.Z. [landing zone] was hot." It usually wasn't. And so after about 30 minutes, the majors and the colonels would fly back to their firebases and tend to other business, while closely monitoring the radios to see if the grunts made "contact." ("War is hell, but contact's a mother—," the grunts said.)

Back in the boonies, meanwhile, the grunts would all breathe a sigh of relief, light up cigarettes and, on most days begin another long walk in the sun. The company commander, and the other young officers, would in many cases revert to being called 'Dick" or "Pete" or "Smitty," just like all the rest of the guys. Life on those unbloody days was almost tolerable, because the military—the "lifers"—weren't around. The company—the family—was alone again. The first sergeant and the captain, usually in their mid- or late 20's, were the father figures. The lieutenants and sergeants, in their early 20's, were the older brothers. Most of the rest were still teen-agers.

The "cherries" would be aghast at the apparent laxity. They would have their M–16's ready, finger on the safety, while some old-timers (you could be an old-timer at 19) would perch theirs over their shoulders.

But if they were ambushed, the old-timers would react instantly, instinctively, and the "cherries" would be the last guys to hit the dirt. Usually, though, there was no ambush.

Instead, silly things would start happening to this secret mission. Up the paddy, or the trail, they would sometimes see some people, seven or eight giggling girls and young boys, perhaps an old woman, with bicycles lying around and boxes and bundles. These groups would tend to appear at exactly the place the platoon or the company had decided previously to stop for lunch anyway.

"Hey, G.I., you want ice-cold Coca?"

"G.I., I have No. 1 pictures. Cheap. You want G.I. cigarettes? You want hammock? Blanket?" And they would display their pornography and Cokes and pot, and some times even beer—canned American beer. And the grunts and Coke girls and the kids and the old women would all sit down in the middle of the secret operation, chatting and bargaining and eating lunch.

Sometimes, if the company commander, say, went to West Point, he would order his grunts to fire warning shots into the air and scare all the giggling girls away. A lot of companies and platoons had straitlaced commanders, but in 1969 a lot also didn't.

"Wouldn't you know it?" said a young platoon leader (a lieutenant who asked to remain anonymous for obvious reasons), pointing down a trail along the paddy fields south of Hue in late summer. A motorscooter putted toward them, carrying a middle-aged man and two girls wearing lipstick. A pimp and his whores. To chase them away, the platoon leader argued with a smile, wouldn't contribute to winning "their hearts and minds."

"The guys like cold Cokes, so do I, and I don't give a—if they buy the pictures. I tell them they shouldn't buy pot, but they do anyway. They know I'll have them court-martialed if they smoke it out here, so they usually wait till we get back to an L.Z. And why shouldn't I let them get it? They've been humpin' their tails off and eatin' bad food while those bastards back at the base eat steak. They hate all this, and it's lunch and we're gonna stop anyway. I just tell them to be careful and not get V.D."

Which was exactly what he told them. And so, right there along the paddy field in the middle of the day, some grunts wandered off to wait in line and drop their drawers. And nobody would ever tell those lifers back at the base that it had happened.

On most days, the war for the grunt was just plain miserable, as Specialist 4 Steve Dokey, a 21-year-old draftee from Benton Harbor, Mich., and Specialist McHenry explained:

"We were O.K. the first two months I was here and then Charlie started blowin' bushes on us," said Dokey. "Seen my buddies getting it. Seen one come out with no legs. Started not likin' it so much."

McHenry: "Say you're a civilian back in the world and you ask a guy if he's been to Vietnam and he says yes and he doesn't care to talk about it. Well, you know he's seen some —. Because this —, you don't want to talk about. You can't explain it to anyone who didn't go through it. Like when I first got in this country, I was scared. But after a while what really got me was that nobody told me you gotta live like an animal. You gotta sleep in a hole at night. And all the other —. There's nothing to talk about."

Dokey: "Who wants to tell your parents that your buddy came out with his guts hangin' out, no legs?"

McHenry: "A couple of days ago I got chewed out by the C.O. 'cause my parents wrote the Red Cross saying they hadn't heard from me. Well, it's just the same old drag. There's nothin' to write about. It's monotonous. Day in, day out. You don't care what day it is. You don't know the date. You just know you got 365 days to keep from gettin' blown away."

Officers in Vietnam didn't have 365 days, however. Their stays in line units were limited to six months, because there were so many of them waiting in line for the good "command time" and the easy promotion—perhaps a few medals—that went with it. The Army did its best to work them all in.

In 1969 the world discovered that massacres could be committed by "us" as well as "them." After the revelations of Mylai, journalists scurried over the countryside looking for atrocity stories and dug into old notebooks trying to find incidents they had jotted down months before anybody seemed to be interested in "good-guy" brutality.

If the South Vietnamese Government had issued licenses to hunt massacres as it did to hunt wild boar, it could have made a small fortune, it seemed. Instant-book writers, politicians, sociologists, psychologists all chipped in their two cents' worth of the most complex explanations. Scarcely a word was heard from the grunts on the subject. But if you asked them, some of the most sensitive grunts would politely suggest that all the researchers need do was read Joseph Heller and William Golding—it was all there.

"Sometimes, it's just like 'Lord of the Flies' out there," said Specialist 4 David Rogers, a 21-year-old Hamilton College graduate and conscientious objector who was serving as a combat medic for a company of the First Infantry. "Eleven bushes are wonderful people, but this is a very corrupting experience. Everyone is young here now. Some guys get weird at times. They don't want me to dust-off [evacuate to a hospital] a wounded VC. They say they want to see him die. Then other times we'll run into some other unit of Americans, and I'll start throwing flowers and leaves at them and these same guys will join in."

At a hilltop landing zone in the Queson Valley south of Danang in August, a helicopter sat down and unloaded two young black-pajamaed prisoners taken from the fighting in the valley below. One was taken into a bunker for questioning. The other squatted on his heels outside.

"If he moves," said the soldier who had brought them as he went inside, "blow the sonofabitch away." The prisoner didn't move much, but within 10 minutes some of the other soldiers at the landing zone had come over to take a look at him. Within 15 minutes, somebody tossed him a canteen of water. Then somebody threw him some cigarettes. Then matches. Then some spearmint chewing gum. Then a candy bar.

Sipping Scotch at a cocktail party in Saigon in late 1969, an Army colonel—unusually sensitive for a colonel—had a little too much to drink and began talking about an informal study he said he'd made with some classified statistics.

"It's amazing," he said. "You know how many guys are putting their lives on the line here every day—less than 80,000 out of half a million. And I'll bet you three-quarters of them are draftees and 11B's. You know what the chances are of an 11B getting killed or wounded in his year in Vietnam? About one in two. Now that's a goddamned travesty." Some other officers were hotly disputing him before he finished. One of them said: "No, no, at least a 100,000 are out there every day and I bet the odds are at least one in five."

The actual statistics, the military here insists, are not available.

In 1969, the grunts would take the rubber-tire Ho Chi Minh sandals from the feet of their victims, but you never heard them talk about taking ears. They would dangle the sandals from their web canteen belts. Around their necks, they dangled chains with peace symbols and love beads that as they walked would sometimes click against the fragmentation grenades or ammunition clips on their chests. It was their helmets which revealed most. You could often tell exactly how many days the wearer had left in Vietnam, the name of his girlfriend and hometown.

Sometimes they would write "Rice paddy daddy," "I love my pig [M–60 machine gun]," or "Yeah, though I walk through the valley of the shadow of death, I fear no evil, for I'm the meanest mother—in the valley," or "The lost year." And somewhere on nearly every other helmet in 1969 there would be written the word "Peace" or "Just give peace a chance," with peace symbols drawn around it. From 100 yards away, they looked like soldiers. From 10 feet away, they almost looked like a tribe of flower children with frags.

At Delta Medical Company in Laikhe in November, six grunts and two medics stood outside the treatment room in the afternoon sun talking about nothing in particular. A truck pulled in and a heavyset grunt got out and walked up, limping slightly. Something he was wearing caught the eyes of the others. It was an inscription on his helmet reading "God, mother, country."

After he walked inside and out of earshot, one of the others remarked, "Must be some kinda weirdo."

None of my guys are gung ho," said First Lieut. Bodie Delaney, leader of the Third Platoon, Alpha Company, First Battalion, 501st Brigade, 101st Airborne Division in Thuathien Province west of Hue. "Out of 28 guys, I have six college graduates, one with a master's in zoology, 10 guys with some college and all but one with high-school diplomas. All but four of them were drafted. Everybody falls into the same category. All of them are reduced to the same level—cover your ass for a year.

"All of them hate this war. There's a lot of superstition even among the college grads. I carried a church key. It became the platoon church key, but one day it was missing and I knew I must have left it back on a hill where we spent the night, about a mile away. Well, they all moaned and gave me all sorts of hell and then got a squad together and went all the way back there—there were gooks around there—to get that church key.

"Funny what happens to you out there. I thought for a long time about what would happen the first time I saw a gook. Could I kill him? When you see a dead one, it's a barbarous-type feeling, I guess. You really feel proud. There he is laying there in the dirt with his head blown off."

On Oct. 15, 1969, the night of the first anti-war Moratorium back in the world, there was a charcoal steak-and-chicken cookout followed by a beer party at Phuocvinh, the headquarters of the First Air Cavalry Division. A song-fest, which lasted well into the night, was led by Capt. Tom Kalunki, an information officer, who divided the group of mostly young officers and soldiers into five sections, each with a separate part to sing. The first group was to sing, "Boom, shhh, shhh, boom, shhh, shhh." The second group's part was: "Humm, tweedle, tweedle, humm, tweedle," and so on down to the last group, which sang, "Daisy, Daisy, give me your answer true." But as the song began, the "boom, shhh, shhh" group altered its lines, singing, "Peace, shhh, shhh,' which others joined until most of those singing the counter-melody were singing, "Peace, tweedle, tweedle, peace tweedle, tweedle."

The next morning, Lieut. Col. Joseph W. McNancy, the division surgeon, was asked about morale. "I'm surprised myself sometimes how really outstanding the morale is here. We don't have incidents here. Quite honestly, we think the men are quite well adjusted and we haven't seen much in the way of problems."

To the contrary, one informant reported later, 250 visits to the division psychiatrist had been made in that month by members of the battalion assigned to guard the Phuocvinh headquarters camp.

Specialist 4 Gregory Chizmadia sat in the recovery ward of a medical company in Dautieng in November, hoping his foot (from which a plantar wart had just been removed) wouldn't heal too fast so that he wouldn't have to go "back out there." He was 19 and had quit school in Detroit to enlist and study radio and telephone repair. But, he said, "I didn't get it. They made me an 11 bush. Said they needed them bad."

Chizmadia didn't want to talk about his experiences since arriving in Vietnam on May 6, but after two hours of chatter about the Jets, Detroit, girls and his sore foot, the conversation began drifting:

"I tell you, you're scared as hell when the stuff starts flying. At first I was scared all the time. *Beaucoup* ambushed. In June, June 11 it was, we walked into that damn base camp and I was gonna re-up [re-enlist to get out of the field] right away. We had 10 guys re-up after that. It was really bad. Lots of dead people. We had a C.O. who was really gung ho, a lifer. He wanted that body count. And after that fight, the dead gooks were laying there, already dead, and he went out and shot each one in the head with his sixteen.

"Sometimes it was real bad and we was in really thick jungle and it was hard and our C.O. said once that we couldn't have any food and water till we got a gook. Finally, he was with another platoon, so we pretended that we got one. We all started shootin' and yellin' and we said we saw some and hit one but they got away. There wasn't no blood or nothing, but the C.O. believed it and he brought us some water in.

"Boy, I don't want to go out there again. I ain't never seen a gook yet that was alive. I'm glad to say I haven't killed anyone over here. I hated every day of it out there."

He was asked about the war.

"It doesn't seem right, all those lifers back there in the Pentagon makin' us come out there and fight this thing. Just doesn't. I haven't seen hardly anybody here who say they are for it unless they're back in the rear."

At 21, S.Sgt. Richard Metzger of Indianapolis was the old man of Charlie Company, Second Battalion, 28th Infantry, First Division, not because of his age but because 22 times in the last year he had inked in solid one or two days on the wallet calendar he always carried. Those black days were the fire fights he had been in during the 11 months and 14 days he had spent on the line. In late November, he had six days left in the Army and was finally back in the rear—at Dautieng—preparing to go home. He knew Charlie Company well: One guy had a master's degree in forestry, at least six were college graduates, 20 to 25 were college dropouts, 50 or 60 were high school grads, and 15 to 20 were high-school dropouts, he said.

"Of the E–5's [sergeants] and below, I can think of only one man out there now who enlisted," he said.

"A lot of guys are re-upping now. When I came over here, nobody re-upped. But, I'll tell you, if I came over here right now, I'd re-up because I know what it's like out there. The only reason why I didn't re-up was because my wife would never forgive me if I did. But if it wasn't for her, I'd have done it and got the hell out of the field."

Sgt. 1st Cl. Graham E. Newshafter, 38 years old, 21 of them in the Army, worked in the First Cavalry re-enlistment office in Phuocvinh in October.

"We have 19 career counselors here and we serve the people right and there on the

L.Z.'s," he said. "We have a quota system for the first-termers—90 a month, or one-half of 1 per cent of our total division strength. I don't know how many men re-enlist to get out of the field. But, remember, this is the only war we've fought in which the Army gives you an opportunity to get out of the field."

In August, out of 138 First Cavalry draftees and enlistees on their first hitch who re-enlisted, 121 were 11 bushes.

In Chulai on Christmas eve, a chaplain for the Americal Division, Capt. Max Sullivan, who was decorated for bravery for having spent so much time during several battles with the grunts, talked about their re-enlistment dilemmas. "When they have an intense problem like that, aggravated by fear, I tell them to think it over. I tell them, 'If you like the Army, re-upping may be a good idea. If you don't, think about it, because you are extending your sentence.'"

Sullivan's division, the largest in Vietnam, has consistently fought sharp, bloody battles in the mountains to the west. It also has consistently had one of the highest re-enlistment rates in Vietnam. "This month," said Sgt. Maj. Paul Shaffer, an enlistment noncommissioned officer for 10 years, "we have hopes of setting another record. We have one man hit every firebase at least every two weeks."

On a sizzlingly hot day in August, it was less than ironic, then, when a helicopter touched down on Landing Zone Center, on a hill above the Hiepduc Valley northwest of Chulai, and dropped off a re-enlistment sergeant.

That was the day that a ragged, demoralized, exhausted company—Alpha, Third Battalion, 21st Infantry, Americal Division—trudged up the hill from a week of hell in the valley below with only half the men it had started with. World-famous Company A, the one that had refused, for an hour, to go to war, was being given the opportunity by the United States Army to re-enlist, to serve for three more years, but not "out there." By the end of the day, the re-enlistment sergeant's results, remarked one officer, had been "outstanding."

SCHOOL BUS SAFETY

Mr. KENNEDY. Mr. President, the lack of national minimum safety standards in the manufacture, operation, maintenance, and inspection of school buses unnecessarily endangers 18 million pupils each day. Some 34,000 of the Nation's 250,000 school buses are involved in accidents each year with 80 percent of the injuries suffered by pupils thrown against unyielding metal and plastic seats and poles inside the bus.

What is doubly distressing is the availability of the expertise and knowledge within the government, university, and scientific communities to considerably reduce such injuries.

Dr. Seymour Charles and Annemarie Shelness, in an article published in the November issue of "Pediatrics," describe the present lack of attention to school bus safety and recommend safety standards to be immediately instituted. The article also provides State-by-State statistics that should be of wide interest to the Members of the Congress.

Mr. President, I ask unanimous consent that the article, entitled "How Safe is Pupil Transportation?" published in the November supplement to Pediatrics, Journal of the American Academy of Pediatrics, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOW SAFE IS PUPIL TRANSPORTATION?

(By Seymour Charles, M.D., and Annemarie Shelness)

While the American school bus is claimed to be the safest form of passenger transportation, a recent survey of accident rates and hazards revealed by the Physicians for Automotive Safety (PAS) indicated substantial deficiencies in school-bus safety. Individual states reported a confusing disparity in safety regulations; no state possessed an optimal situation. No uniform national standards for the medical qualification, selection, training, and supervision of bus drivers exist. Existing scientific knowledge concerning safety, like that reported by the University of California at Los Angeles Institute of Traffic and Transportation's study on school bus collisions, have not been widely applied for pupil and driver protection. The collision experiments with anthropometric dummies as "passengers" were set up to establish the feasibility of using seat belts or other restraining devices for youngsters in school buses. The findings cover these and many other aspects of vehicle design. Some of the recommendations are: seat backs should be raised to a height of 28 inches; seat backs must have effective padding on the rear panels and strong, well-padded arm rests; seat belts should be provided for all passengers but only in combination with the safety seats described above; drivers of school buses should wear seat belts; seats must be anchored securely to the floor to withstand collision forces of up to 30 G; windows should remain in place even after being struck by passengers' heads or shoulders; rigid, protruding structures inside the vehicle should be eliminated if possible or recessed; no standees should be permitted; at least four emergency exits should be provided—the matter of evacuation requiring further study; and school districts should conduct fire drill demonstrations with instructions to children to stand well out of the way of traffic after leaving the bus. Bus safety is often compromised by lack of adult monitors, children crowded into standing and hazardous construction of bus interiors.

School buses operate under a number of favorable conditions. Few buses are on the roads during peak accident periods; they are usually conspicuous because of their size, color, and markings. They are surrounded by an aura of "sanctity," subjected to periodic inspection to reduce the possibility of mechanical failure, and are basically of stronger construction than other vehicles on the road. As populations grow, urban sprawl increases and use of school buses for many public events, and private preschools and other educational ventures increase, these safety advantages will diminish.

The school's traditional community safety rule makes bus safety emphasis even more important. Judging by the evidence compiled by the PAS survey, many safety recommendations have not been implemented across the country. Based on the national survey conducted, the following measures are urged for each school district: (1) A physical examination prior to the employment of a school-bus driver and annually thereafter. (2) School-bus drivers to be over 25 and under 60 years of age. (3) Any person hired to operate a school bus to be required to attend a job training course before being permitted to drive passengers; this to be followed by annual refresher courses. (4) Standards for school-bus design to be set immediately based on UCLA research recommendations; other proven school-bus safety features now available as optional equipment to become standard. (5) Seat belts for the use of school-bus drivers to be installed immediately and the wearing of the belts to be a condition of employment. (6) National school bus chrome, the familiar yellow color, to be required for all vehicles carrying schoolchildren. (7) Effective crash padding to be developed and installed to cover exposed steel seat and guard rails in buses currently in use. (8) The protection of passengers in front seats to receive immediate attention in buses currently in use. (9) Standing in school buses to be forbidden. (10) Bus transportation to be provided, regardless of distance from school, if walking is hazardous. (11) Principles of highway safety, with particular emphasis on school-bus safety, to be taught in schools from kindergarten through twelfth grade. (12) Road-crossing drills (to and from the stopped bus) and bus-evacuation drills to be held frequently. (13) Adult monitors to ride on all buses. (14) Uniform and itemized records of school-bus accidents to be kept in every state. The Tables I and II summarize the legal and injury reporting circumstances for each state as they are reported. As educational institutions, the school systems of our country should teach by example. A safe school bus situation combined with more effective legislation and education are critical ingredients in protecting the lives of this nation's children.

TABLE 1.—SCHOOLBUS REQUIREMENTS

State	Seat belts for bus-drivers: Required by law or regulation	Seat belts for bus-drivers: Districts which have installed	Standees permitted	Driver age limits: Minimum	Driver age limits: Maximum	Medical examination required	Districts requiring training for drivers
Alabama							
Alaska	no		10-60	19		pr/e, an	none.
Arizona	no	8%	none	21	65	pr/e, an	all.
Arkansas	no		unlimited	17		an	30%.
California	no	some	none	18		pr/e, tri	
Colorado	yes, nb	some	none	18		pr/e, an	some.
Connecticut	no	none	none	21		pr/e, an	none.
Delaware	no	none	unlimited	21	70	pr/e, bi	none.
Florida	yes, nb		unlimited	17		pr/e, an	60%, c.
Georgia	yes, nb		20%	18	65	pr/e, an	
Hawaii	no	none	66⅔%	20		pr/e, an-bi	
Idaho	yes, nb		10%, E	18		pr/e, an	some.
Illinois	no		none	21		pr/e, an	70%.
Indiana	yes		none	21		pr/e, an	some.
Iowa	yes, nb		none	de 16		pr/e	some.
Kansas	yes	all	none	16		pr/e, an	
Kentucky	yes, nb		unlimited, x.				
Louisiana	yes, nb		unlimited	18	65	none	
Maine	yes, nb		none	18		an	
Maryland	yes	25%, b	20%	21	65	pr/e, an	all.
Massachusetts	no		25%	21		pre/e	

TABLE I.—SCHOOLBUS REQUIREMENTS—Continued

State	Seat belts for busdrivers: Required by law or regulation	Seat belts for busdrivers: Districts which have installed	Standees permitted	Driver age limits: Minimum	Driver age limits: Maximum	Medical examination required	Districts requiring training for drivers
Michigan	no	25%	unlimited	21		pr/e, an	
Minnesota	no, BP	35%	none	18		pr/e, an	
Mississippi	no	none	unlimited	17	70	pr/e, an	all.
Missouri	no		unlimited	16		pr/e, an	
Montana	no	3%	unlimited	21		pr/e, tri	
Nebraska	no	2%	none			pr/e, an	
Nevada	no	10%, b	none	17	65	pr/e, an	all, t.
New Hampshire	no	5%	none	21		none	
New Jersey	no		none	21		pr/e, an	some.
New Mexico	no	75%	20%, s	18		pr/e, an	most.
New York	no	some	20%	21	70	pr/e, an	some.
North Carolina	no	½%, b	25%	16		none [1]	all.
North Dakota	no		none	18	65	pr/e, an	75%.
Ohio	yes, nb		10%	21		pr/e, an	all.
Oklahoma	yes, nb		unlimited	de 16		[2]	some.
Oregon	no	none	20%	18	65	[3]	some.
Pennsylvania	no	some	none	21		pr/e, an	1%.
Rhode Island	no	none	none	21		an	
South Carolina	yes, nb	none	25%	16		none	all, T.
South Dakota	yes, nb		none	16	65	pr/e, an	none.
Tennessee	yes, nb		20%	21	65	pr/e, an	
Texas	yes	all	20%	17		none	20%.
Utah	no		20%	21		pr/e, an	
Vermont	no		10%, E	18		pr/e, an	
Virginia	yes	some	unlimited	16	65	pr/e, an	
Washington	yes		unlimited	18		pr/e, bi	all.
West Virginia	yes, nb		10%	21	65	pr/e, an	all T_1.
Wisconsin	yes, nb	2½%	none	21		pr/e, tri	most.
Wyoming	no	4%	unlimited, x	16	70	pr/e, an	11%.

Note: an=annually, b=buses, not districts, bi=biannually; BP=bill pending; c=counties, not districts; de=16 and 17 with driver education only; E=10% in emergency only; nb=new buses; pr/e=prior to employment; s=short distances only; t=a 10 hour program; T=12-hour classroom, 6 hour driving; T_1=24 hours pre-service, 12 hours in-service; tri=triannually; x=not to exceed maximum capacity established by manufacturer.

[1] For over 65 only.
[2] 5 years for those under 65; every year for those over 65.
[3] 3 years for those 18 to 35; 2 years for those 35 to 45; 1 year for those 45 and over.

TABLE II.—SCHOOL BUS DATA

State	Pupils transported	Annual mileage	Number of vehicles in use	Accidents	Pupils: Passengers: Injured	Pupils: Passengers: Killed	Pupils: To and from bus: Injured	Pupils: To and from bus: Killed	Busdrivers: Injured	Busdrivers: Killed	Others: Injured	Others: Killed	Total: Injured	Total: Killed
Alabama														
Alaska	20,000	2,211	225											
Arizona	122,404		1,250	54	9	0	3	1	1	0	28	1	41	2
Arkansas	207,013	31,806	3,534	61	17	0	6	2	0	0	12	2	35	4
California	1,000,000	127,000	9,596	[1] 9,151	167	0	0	0	26	0	238	12	431	12
Colorado	150,000	22,000	3,000	122	11	0	0	0	0	0			11	(I) 0
Connecticut	254,124	17,644	2,300	208	(Total injuries 101; killed 3)								101	3
Delaware	50,000	5,600	700											
Florida	350,406	37,292	3,654	236	(Injured 87; killed 3)				7	1	46	1	140	5
Georgia	505,007	53,702	5,046	[2] 226										
Hawaii	11,920													
Idaho	80,017	10,849	1,330	152	21	0	4	1	2	0	4	1	31	2
Illinois	520,449	68,586	9,000	[3] 565	40	0	0	1			20	1	60	(I) 2
Indiana	504,919		7,000	416	87	4	0	0	0	0	53	1	140	5
Iowa	263,991	52,244	5,997	346	90	0	2	1	9	0	37	3	138	4
Kansas	125,000	32,000	5,200	89	14	0	0	9	8	0	28	1	50	1
Kentucky														
Louisiana	479,149	39,796	5,530	181	(Total injuries 48; killed 4)								48	4
Maine	116,268	13,673	1,403											
Maryland		96,000	3,500	257	92	0	2	0	38	0	27	1	159	1
Massachusetts	378,501	25,262	4,969	84	(Total injuries 82; killed 2)								82	2
Michigan	670,000	76,000	7,700	[4] 356	(TP) 253	0	28	1	0	1			281	2
Minnesota	379,542	56,165	6,139	[5] 311	325	3	2	1					327	(I) 4
Mississippi		43,904	5,241	164	81	0	0	1	4	0	16	4	101	5
Missouri	458,813	55,090	6,191	336	86	0	7	0			79	2	172	(I) 2
Montana	42,877	12,327	1,064	28	16	0							16	(I) 0
Nebraska	55,000	18,000	2,100	43	(Total injuries 19; killed 1)								19	1
Nevada	24,738	3,742	508											
New Hampshire	66,600	7,078	947											
New Jersey	430,000	28,468	7,500	66	9	0			5	0	10	2	24	2
New Mexico	97,427	12,174	1,516	[6] 63	3	0	1	2	0	0	2	0	6	2
New York	1,348,457	145,576	16,000	721	535	0	18	1			5	0	558	(I) 1
North Carolina	592,000	69,000	9,000	[7] 1,156	294	2	11	3	16	0	117	4	438	6
North Dakota	54,352	23,339	1,810	64	19	0	0	0	8	0	7	0	34	(I) 0
Ohio	935,000	77,000	9,300	1,059	72	0	0	3	0	0	91	1	163	4
Oklahoma	169,801	28,523	3,487	78	82	0	0	0	0	0	0	0	82	0
Oregon	331,000	22,000	2,770	222	25	0	3	0	0	0	15	0	43	0
Pennsylvania	1,000,000		10,000	668	282	4	16	4	34	1	249	4	581	13
Rhode Island	59,671	5,516	480	81	6	0	1	0	0	0	1	0	8	0
South Carolina	341,000	37,000	5,011	291	134	0	10	2	10	0	0	1	154	3
South Dakota	31,627	11,073	1,067	25	2	0	0	0	0	0	5	0	7	0
Tennessee	420,667	44,580	4,556	206	(Injured 52; killed 0)				0	0			52	(I) 0
Texas	473,039	78,294	7,787	418	98	0	4	1	10	0	43	3	155	4
Utah	83,000	6,000	873	34										
Vermont	37,163	6,525	745											
Virginia	538,544	49,347	5,945	[8] 503	207	0	4	2	11	0	20	1	242	3
Washington	301,532	31,473	3,422	233										
West Virginia	252,250	21,606	2,236	100	34	0	0	0	1	0	4	0	39	0
Wisconsin	351,995	68,000	6,583	227	140	1	1	1	12	0	36	0	189	2

Footnotes at end of table.

State	Pupils transported	Annual mileage	Number of vehicles in use	Accidents	Pupils: Passengers: Injured	Pupils: Passengers: Killed	Pupils: To and from bus: Injured	Pupils: To and from bus: Killed	Busdrivers: Injured	Busdrivers: Killed	Others: Injured	Others: Killed	Total: Injured	Total: Killed
Wyoming	24,093	4,495	782	[9] 36	(Total injuries 5)								5	(I) 0
Total	14,709,355	1,677,960	203,994	11,637	2,998	14	123	28	202	3	1,193	46	3,928	95
	In 46 States	In 44 States	In 47 States	In 41 States	In 30 States		In 29 States		In 28 States		In 28 States		In 29 States	

[1] California—calendar year 1966.
[2] Georgia—1965–66.
[3] Illinois—1965–66.
[4] Michigan—1965.
[5] Minnesota—calendar year 1965.
[6] New Mexico—1965–66.
[7] North Carolina—1965–66.
[8] Virginia—1965–66.
[9] Wyoming—1965–66.

Note: (I)=incomplete figures and therefore not included in totals; TP=total passengers. Figures are for 1964–65 unless otherwise specified.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1969

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will resume the consideration of the bill.

Mr. ELLENDER obtained the floor.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the Senator from Louisiana does not lose his right to the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PELL. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. The pending question is on agreeing to amendment No. 481 offered by the Senator from Mississippi (Mr. STENNIS) and others to H.R. 514, the pending business.

The Senator from Louisiana (Mr. ELLENDER) has been recognized under a previous order.

Mr. ELLENDER. Mr. President, before proceeding with a discussion of the pending amendment I would like to state that the Senate is indebted to the Senator from Mississippi and also the Senator from South Carolina for presenting undeniable facts as to the operation of the school desegregation program throughout the country.

FORCED INTEGRATION

Mr. President, I took my oath of office as a Senator 33 years ago last month. Within a year after I took my oath we began a debate on a so-called civil rights issue, and practically every year until now we have had discussions on the subject. Our great Capital, the city of Washington, had a population then of about a half million people, 34 percent of whom were blacks and the rest whites. Since the decision of the Supreme Court of 1954, and in part due to that decision, the population has changed considerably. I heard on the radio last week that blacks now constitute 68 to 73 percent of the population.

We had no serious difficulty 33 years ago, but recent efforts to integrate the races by force have led to much trouble. I never dreamed that I would ever see Washington burned from my office window; and that happened about 2 years ago. The difficulties between the two races at that time had increased very much. Since all of this effort to achieve forced integration has taken place, there has been a growth of ill feeling between the blacks and whites, to the lasting detriment of all our citizens—black and white alike. None of us like to see that; and it is my considered judgment that under a national policy of freedom of choice this problem would probably be solved without the use of arms, force, harassment, and intimidation against school districts by the Federal Government.

SOUTHERN PROBLEMS AND SOUTHERN PROGRESS

It is true that the South has been backward in its educational program. I can well remember when I attended school in my State. I started out when I was 7 years old. The first school I attended in 1897 was not a public schoolhouse but a small shanty that was the abandoned home of someone. The school board of Terrybonne Parish leased this shanty and made it into a school.

At that time, the people of my parish were unable to build schools for the simple reason that we did not have the tax base. Our State was poor, very poor. The South was only poor and remained so until the last two or three decades. Only 5 or 6 years ago I attended a function in my parish to celebrate the 50th anniversary of the first public school constructed from tax money in the ward or area of the State where I was raised.

We had only one school in the entire parish, the largest in the State, that was constructed from public funds and that was in the city of Houma, the parish seat.

Times were hard during all that period, Mr. President, and it was only many years later that we were able to provide sufficient funds in order to establish within our parish a sufficient number of schools built from public funds. The construction was rather slow due to an insufficient tax base. But in the year 1926 the search for oil and gas culminated in success, and the first oil well discovered in the area where I live began to produce oil. From then on, financial conditions in my area began to look up.

As a result, we were able to start the construction of many schools throughout my area. And with that, we were able to provide good education not only for the whites but also for the blacks. The schools for the blacks were just as modern as the schools for the white.

Not only did we have a custom, but it was the law at that time that the 14th amendment was met by giving to all citizens equal facilities. Under that doctrine, the South, as well as the District of Columbia, and many, many other parts of the country which today refuse to admit that they ever consciously took part in any kind of segregation of the races in schools or elsewhere, proceeded to construct schools that were separate but equal.

I think that worked very well. In our higher education institutions in Louisiana even before the 1954 decision, some blacks enrolled in our State colleges, and after that decision many did. This situation was developing to a large degree in the absence of high-handed coercion from the Federal Government.

But I want to say that since efforts have been made by the Court and by the Congress to enforce integration, suspicion has developed among the whites and the blacks of the South—a state of affairs that I have never experienced before.

WASHINGTON, D.C.: A CASE HISTORY

Here in the District of Columbia, let us say, when I first came here one could sense little or no trouble between the blacks and the whites. It was only after efforts were made to force integration of Negroes and whites that great trouble ensued.

Today in the city of Washington, the population, as I have just stated, has increased somewhat, but the difference between the Negroes and whites has changed a good deal. As I said, the estimate is that almost three-quarters of the population of Washington is black, in contrast to about 37 or 38 percent when

I first came to Washington 33 years ago. What do we find now in the schools? When I first came to Washington there were separate schools. Later on, when efforts were made to force integration, we see a changed picture.

I am informed that 93 percent of the students in the public schools in the city of Washington are blacks; the rest are whites. And what has happened in the city of Washington will happen in many areas of our whole Nation, where a considerable amount of the population is black.

Take the city of New Orleans, where the population in 1933 was about the same as it was in Washington and, percentagewise, the blacks, and whites were about the same. The proportion of Negro children to white children in the schools was in about the same ratio, 38 to 62, in the city of New Orleans. But today, because of forced integration—which, as I say, is contrary to the law, as I shall point out in a few minutes—the proportion of Negroes to whites in the schools is not 38 to 62, but about 62 to 38—just the reverse.

I know that that is not good for the country. Certainly it is not good for the Negroes in whose interest it is supposed to be happening.

Mr. President, the tragedy of all this is that by attempting to force an integration which the great majority of both races do not want, we are about to cause a general breakdown in our southern educational systems. The ironic tragedy is that foremost among the sufferers are the ones we are supposedly trying to help, the Negroes.

As I shall try to show during the course of this discussion, the big question now is, Where do we go from here? Do we impose on the rest of the Nation the sort of system which has evolved here in the District of Columbia or do we back off and take another sober look at the whole matter?

CONGRESSIONAL INTENT IN 1964 ACT

As I shall point out, Mr. President, and as I have stated on occasion in the past, the 1964 Civil Rights Act would never have been placed on the statute books except for the fact that Congress, in its wisdom, saw fit to place in the law an escape for large cities of the North and other areas in the country, by defining "integration" as not meaning the busing of children from one school to another, or from one district to another district.

In addition, there was a proviso placed in the body of the law to the effect that no court or no administrator of the law would have the right to bus or cause to be bused children from one school to another, or from one school district to another.

Yet, Mr. President, in spite of that, HEW has made rules and regulations which are directly opposite and contrary to these provisions in the law, as I shall describe in detail. And all of this, Mr. President, has meant a lot of trouble between the races, with riots, destruction of property, and open violation of the law.

I can well recall the statements of many so-called leaders, both black and white, who have openly admitted that actions they were about to undertake were in violation of the law. Under this principal of anarchy and of disrespect for authority, Mr. President, we now have in this country a situation which must be corrected soon, for unless it is, I do not see any hope for us to attain peace and quiet in many of the cities of our country, particularly here in the city of Washington, our Nation's Capital.

Mr. President, I have here some prepared remarks. Not that I am inviting anyone to stay, but it is a great pity that of the 100 Senators, only four of us are in the Chamber at this time.

Mr. BYRD of West Virginia. One of whom, if the Senator will yield, is the junior Senator from West Virginia (Mr. BYRD).

Mr. ELLENDER. Yes; with the Senator from Alabama (Mr. ALLEN) and the Acting President pro tempore (Mr. METCALF). I just wonder how we can expect Senators to vote properly or study these measures, when they do not seem to have any interest in the subject.

I have found, Mr. President, that in this volatile issue there is more politics than anything else involved; and when politics enters into the solution of a problem, those who deal with the problem seem to lose their sense of reason. It is a terrible thing that the Senate was not here to listen to the great speeches made by the distinguished Senators from Mississippi and South Carolina, and to hear the facts that were presented to the Senate to indicate what is happening in our country.

Our educational system is breaking down and, I repeat, the tragedy of it all is that those we are trying to help are the ones who will suffer most.

COSPONSOR OF STENNIS AMENDMENT

I strongly support, Mr. President, the amendment to H.R. 514, proposed by my distinguished colleague, the Senator from Mississippi (Mr. STENNIS), and cosponsored by the Senator from South Carolina (Mr. HOLLINGS), the Senator from Georgia (Mr. RUSSELL), the Senator from Alabama (Mr. ALLEN), myself, and many other Senators.

As an aid to those who will be studying these debates in days to come, I ask unanimous consent that the text of the amendment be printed in the RECORD at this point.

There being no objection, the amendment (No. 481) was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 481

On page 45, between lines 4 and 5, insert the following new section:

"DISCRIMINATION ON ACCOUNT OF RACE, CREED, COLOR, OR NATIONAL ORIGIN PROHIBITED

"SEC. 2. (a) No person shall be refused admission into or be excluded from any public school in any State on account of race, creed, color, or national origin.

"(b) Except with the express approval of a board of education legally constituted in any State or the District of Columbia and having jurisdiction, no student shall be assigned or compelled to attend any school on account of race, creed, color, or national origin, or for the purpose of achieving equality in attendance or increased attendance or reduced attendance, at any school of persons of one or more particular races, creeds, colors, or national origins; and no school district, school zone, or attendance unit, by whatever name known, shall be established, reorganized, or maintained for any such purpose: *Provided*, That nothing contained in this Act or any other provision of Federal law shall prevent the assignment of a pupil in the manner requested or authorized by his parents or guardian."

Mr. ELLENDER. The amendment is a very simple one. Its first section restates the law, already on the books, that it shall be illegal for public school officials anywhere in this country to refuse admission to a student on account of that student's race, creed, color, or national origin.

The second section of this simple and clearly stated amendment will make it illegal for any agency of the Federal Government or any State government to force a child to attend any particular school not of his choice on account of his race, creed, color, or national origin for the purpose of achieving what has become known as racial balance in that school or school system.

The latter provision contains other elements; but, in essence, it would provide specific legislative approval for what we have come to know as freedom of choice.

It is interesting to note that the language of this amendment has been taken verbatim from a statute recently enacted by the Legislature of the State of New York. The State law in question is section 3201, chapter 342, which was approved May 2, 1969, and which became effective September 1, 1969. It should be remembered that this law was enacted last year for the State of New York, and we are now asking that it be made the national law. Why anybody should object to that, I cannot see.

The law reads as follows:

Section 1. Section thirty-two hundred and one of the education law is hereby amended to read as follows:

"3201. Discrimination on account of race, creed, color or national origin prohibited—

"1. No person shall be refused admission into or be excluded from any public school in the State of New York on account of race, creed, color or national origin.

"2. Except with the express approval of a board of education having jurisdiction, a majority of the members of such board having been elected, no student shall be assigned or compelled to attend any school on account of race, creed, color or national origin, or for the purpose of achieving equality in attendance or increased attendance or reduced attendance, at any school, of persons of one or more particular races, creeds, colors, or national origins; and no school district, school zone or attendance unit, by whatever name known, shall be established, reorganized or maintained for any such purpose, provided that nothing contained in this section shall prevent the assignment of a pupil in the manner requested or authorized by his parents or guardian, and further provided that nothing in this section shall be deemed to affect, in any way, the right of a religious or denominational educational institution to select its pupils exclusively or primarily from members of such religion or denomination or from giving preference to such selection to such members or to make such selection to its pupils as is calculated to promote the religious principle for which it is established."

Section 2. This act shall take effect on the first day of September next succeeding

the date on which it shall have become a law.

It can easily be observed, Mr. President, that none of us who are supporting this amendment wishes to do anything more than to apply to the Nation a most sensible rule which the Legislature of New York has been wise enough to apply to its own people.

The language in question did not originate in the South. It originated, it was debated, and it was only very recently enacted, in a State which is regarded as one of the most "liberal" in the Union with regard to matters of constitutional rights.

The good people of the State of New York, through their representatives of the legislature at Albany, have taken the highly appropriate step of restating and of attempting to protect one of their own constitutional rights; namely, their right of freedom from being forced or coerced by State or Federal officials into sending their children to a public school not of their choosing and without the approval of the local board of education, the majority of whom have been popularly elected.

VIOLATION OF CONGRESSIONAL INTENT

This is not a new topic for debate in the Senate of the United States. As my colleagues will remember, we have debated the subject on two or three previous occasions; and in each case, Congress has stated its intent quite clearly, only to have its obvious will disregarded by the administration then in power.

As I shall point out in these remarks, this willful disregard of clear-cut congressional intent on the subject of "Freedom of Choice" has been a policy of both the previous administration and the present one. As I stated in my remarks of December 17, 1969, when I spoke in support of the so-called Whitten amendment, I can well recall that during the debates on the 1964 Civil Rights Act, this was a subject of considerable importance.

I remember very well the then minority leader, the Senator from Illinois, Mr. Dirksen, refused to support title IV of the act unless and until it was agreed that nothing in the act would authorize or require the busing of children in order to achieve racial balance or to overcome racial imbalance.

Mr. President, not long ago I was at my home, and next to the little piece of land I own, a farm, is a public school. I gave 6 acres of land, just presented it to the school board, to construct a modern school. This school happened to adjoin a settlement which was composed mostly of blacks, called Mechanicsville. It is a fine school, has good teachers, I saw and heard little children actually crying when they were forced to get on a bus to be taken 20 miles away in order to balance whites and blacks in a school. Then whites from other schools not far away were brought to that same school in order to attain a balance between blacks and whites.

Mr. President, this is farcical.

This is a new method of trying to provide social equality rather than a good education.

That is why it is not working.

Since the proponents of the 1964 act could not possibly have attained its passage without the effective cooperation and assistance of Senator Dirksen, two specific provisions were placed in the bill to make it quite clear the Congress intended to keep from the Federal Government the power to deny the right of a child—actually his parents—to attend the public school of his choice. The first of these provisions appears in section 401, title I of the 1964 act where it states very plainly—and listen to this Mr. President—that:

"Desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin; but "desegregation" shall not mean the assignment of students to public schools in order to overcome racial imbalance.

Mr. President, how could language be written more plainly?

This language not only describes what "desegregation" means but also makes it very clear what, in the specific intent of Congress the term "desegregation" shall not mean. With regard to the latter, it says emphatically that it shall not mean "the assignment of students to public schools in order to overcome racial imbalance."

Still, the Senator from Illinois—the great Mr. Dirksen—in his great wisdom and in his great desire to keep his people, both black and white, free from the disastrous consequences of forced school integration, insisted that still another provision be inserted into the 1964 act. He was determined that the issue be stated so clearly that not even HEW attorneys would be able to rewrite the law on this point by means of guidelines—or so he thought.

Therefore, in section 407(a), he insisted on a provision which is in the law of the land today and it reads as follows:

Provided, That nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another school district in order to achieve racial balance

This is clear language, Mr. President. It could not be written more plainly. Yet HEW wrote guidelines which actually violated that specific law. It is my belief that most of the trouble is being generated by HEW from that act.

In effect, Congress was attempting then to write into law, and did in fact write into the law, the very same rule adopted last fall by the New York Legislature.

Few of us expected that so clear a statement of congressional intent would be so totally disregarded and so flagrantly violated by the executive branch and, in particular, by officials of HEW and the Department of Justice, who are supposed to administer the law as adopted by Congress and not rewrite it in their own image.

ADVICE TO CONSTITUENTS IN 1964

Although I strenuously opposed adoption of the 1964 act, I assumed that it would be fairly, honorably, and impartially administered. I assumed that there would be no discrimination in the application of the law which was designed specifically to outlaw discrimination.

(At this point Mr. ALLEN took the chair as Presiding Officer.)

Mr. ELLENDER. Mr. President, on that presumption, I appeared on the public media in my home State of Louisiana and counseled my constituents as follows:

The fact remains that, until changed or repealed by the Congress, or else declared unconstitutional, the laws enacted by the Congress must be respected. If any can be defied with impunity by citizens or groups of citizens, then the respect for all law will be diminished. The result would be widespread strife and discord enveloping our land—a condition which leads to anarchy or the absence of law and order. History has taught us that a state of anarchy is the hardest master of all political forms; it leads without fail to a dictatorship of the strongest.

The new so-called civil rights law . . .

And that is the law of 1964 that I was talking about—

will be resisted in many parts of the South and there is no doubt that it will be difficult to enforce. But if its enforcement is to be resisted, as I am certain it will be, I want to emphasize as strongly as possible that it must be within the framework of the orderly processes established by law. Any other course is foolhardy and indefensible—much more indefensible and dangerous than it might have been at some other time in our nation's past. Flagrant disobedience and violence are also much more inexcusable than they might once have been. If such a course were ever justified, the justification has long since disappeared.

From time to time I have pointed out that when issues bearing the label of civil rights are brought before the Congress, otherwise sensible men seem to lose their power to analyze and reason. Emotionalism becomes the order of the day. I have deplored such emotionalism on the part of our legislators, and if the need should arise, I shall deplore it on the part of the Southern citizenry. The coming months will be trying ones for all of us, but the difficulty must be met with calm and reason, and not with violence and emotion.

Now, Mr. President, that was a public statement I made within less than 5 hours after the law was enacted. I was criticized for making that statement, but it was not long after I made it that many other fine southern Senators took the same attitude.

"It is the law now. Let us try to live with it. Unless we do, anarchy will follow." That is what I advised my people.

For the most part, I believe that the vast majority of my constituents have tried to follow the law. They respect the law and detest anarchy, civil disobedience, and racial strife. They are willing to meet anyone half way on any proposition which has been adopted by means of the democratic process. But they detest and react harshly toward bureaucrats who, in the name of the law, are themselves plainly violating the law as it was enacted by the Congress.

When I made that statement, I felt sure, as did many other Senators, that the law as enacted would be followed. When questionable and objectionable guidelines were issued by HEW, we tried our best. We visited the President, then

President Johnson. We visited the HEW Administrator and pointed all this out to him, but to no avail. It was a plain violation in my book of what Congress enacted, as I pointed out a while ago from the law itself.

It becomes difficult, if not impossible, for my people to accept edicts, guidelines, and dictates from Federal officials who have not been elected by the people, who are obviously violating the congressional intent of the laws they seek to enforce, and who deliberately choose to misapply those laws to only one section of the country.

The point is, Mr. President, that I was not forced to give this advice to the people I represent. President Johnson was our Nation's leader then, but he did not try to twist my arm on this matter. I acted voluntarily in the interests of the people of the South, white and black.

I have no use for the doctrine of civil disobedience; I do not think that doctrine has a valid place in our American culture or within the American system of government. We have other institutions and political processes to right the wrongs of government. These should be used; they have been used successfully in the past.

I point out, however, that when large numbers of the population feel "put upon," as it were; when they find no recourse through the legislative, political, or judicial process, they may be forced to go against their own better judgment.

This is what is happening in the South today. It is what will always happen in any society where public policies are developed outside the bounds of reason and outside the constraints of reality. Where there is no reality in the law, the people will act to create their own institutions in line with their own experience and culture. History teaches us this, if nothing else, and we cannot escape it by judicial decree or administrative fiat.

I think my colleagues can easily see the position that the outlawing of freedom of choice puts me in. As the senior Senator from Louisiana, I have spoken against civil disobedience at the time it was rampant in the streets of the Nation; I spoke against its use by the citizens of Louisiana and of the South. When the 1964 Civil Rights Act was on the verge of being signed into law, I told my people: "Here is the law; many of us do not like it. It is repugnant to us and to our way of life, but until it is declared unconstitutional by the Supreme Court, the law must be followed."

Now we find that the law as enacted by the Congress and as representing the intent of the Congress, is not being followed by those responsible for its administration. So I have, in effect, been placed in the position of telling the citizens I represent to obey the Federal Government, while the Federal Government itself is violating the law and its spirit. Needless to say, this is an abhorrent position to me.

Mr. President, I ask that the full text of my remarks delivered to the citizens of Louisiana on July 4, 1964, on this subject be printed in the RECORD at this point.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

CIVIL RIGHTS BILL SIGNED INTO LAW

As I record this broadcast, the final stage in the 1964 "civil rights" battle is fading out, and the President will soon sign the bill into law. I cannot agree with those who advocate flagrant and perhaps violent opposition to any statute enacted by the Congress, if declared constitutional.

The great majority of national legislation is enacted because of a need for regulations to guide the people of our nation along the paths of orderly progress to bring benefits to all. I must confess that, in recent years, it has seemed to me that the Congress may have acted on some occasions simply to put more laws on the books without good and substantial reason, but that is neither here nor there. The fact remains that, until changed or repealed by the Congress, or else declared unconstitutional, the laws enacted by the Congress must be respected. If any can be defied with impunity by citizens or groups of citizens, then the respect for all law will be diminished. The result would be widespread strife and discord enveloping our land—a condition which leads to anarchy or the absence of law and order. History has taught us that a state of anarchy is the hardest master of all political form; it leads without fail to a dictatorship of the strongest.

The new so-called civil rights law will be resisted in many parts of the South and there is no doubt that it will be difficult to enforce. But if its enforcement is to be resisted, as I am certain it will be, I want to emphasize as strongly as possible that it must be within the framework of the orderly processes established by law. Any other course is foolhardy and indefensible—much more indefensible and dangerous than it might have been at some other time in our nation's past. Flagrant disobedience and violence are also much more inexcusable than they might once have been. If such a course were ever justified, the justification has long since disappeared.

From time to time I have pointed out that when issues bearing the label of civil rights are brought before the Congress, otherwise sensible men seem to lose their power to analyze and reason. Emotionalism becomes the order of the day. I have deplored such emotionalism on the part of our legislators, and if the need should arise, I shall deplore it on the part of the Southern citizenry. The coming months will be trying ones for all of us, but the difficulty must be met with calm and reason, and not with violence and emotion.

We in the Congress fought against passage of the civil rights bill with reason and logic. A spirit of accommodation and good grace prevailed during the debates, although the differences and disagreements between Senators were very great, sharp and deep. Now that the bill has become law, in spite of all our efforts, I express the hope that after being duly and properly tested in the courts and its enforcement brought about in an orderly way that the good relations which formerly existed between the races in the South will be restored.

In recent months, we have heard a great deal about the concept of "civil disobedience". As you may know, the followers of this belief feel they have no duty to obey so-called "bad" or "unjust" laws, and that they themselves will decide which laws are good or bad, just or unjust. On several occasions I have spoken out against this doctrine, and against those who profess to follow it.

Now we have before us a law with which many of us disagree, and will find hard to obey. But it is the law, and the doctrine of civil disobedience has no more credence now than it did before. Groups of demonstrators and others who attempt to take the law into their own hands and shape it more to their liking are wrong and misguided in their actions. Other persons or groups who may in the future attempt the same procedure for different reasons will likewise be wrong and misguided. These questions should be left to the orderly procedures of the courts, where they will no doubt rest for many years to come.

LEGAL FORUM DENIED

Mr. ELLENDER. Mr. President, to add insult to injury, the Supreme Court of the United States has gone so far as to refuse to hear arguments on suits which have been filed by the Governors of several Southern States, challenging the legality of actions by the Department of Justice and the Department of Health, Education, and Welfare.

It is bad enough that the administrative branch and the judicial branch have been able to rewrite the law on this subject in a manner which clearly violates the law as it was passed by Congress. However, it is virtually unthinkable that the highest Court in the land will not even allow the Governors of several States to appear and to plead their case.

It is similarly distressing that the administrative branch, despite its role as defendant in these cases, has not absolutely insisted that the case at least be argued before the High Court. Obviously, HEW is violating the law and does not want to appear on the same forum as anyone who can accurately and truthfully demonstrate that it is violating the law.

Even though HEW knows that the final verdict from the Supreme Court would probably be in its favor, it does not want the embarrassment and bad political publicity of being depicted in legal, provable terms as an agency which flagrantly violates congressional intent.

Nor does the Supreme Court want to hand down a written decision which it cannot document convincingly or defend logically without admitting to the world that it, like HEW, has no respect whatever for congressional intent in applying the law in question.

Mr. President, as I did only 6 weeks ago in supporting the Whitten amendment, I charge again that both this administration and the previous one have been playing games with words in an effort—a highly successful effort, I might add—to thwart the intent of Congress. Despite all of the language quoted above and despite the language inserted into the HEW appropriations measure, Public Law 90–577, the administration has allowed HEW to charge ahead with busing, forced integration and a wide variety of coercive edicts to local school districts which were not only not contemplated by the Congress but which the Congress specifically attempted to rule out on several different occasions.

In effect, HEW continues to spend funds approved by the Congress to force school districts to take expensive disruptive measures to achieve the "racial balance" which the Congress, itself, has on two or three occasions classified as an improper objective for the expenditure of Federal funds.

HEW POLICY BASED ON MYTHS

What bothers me most about this matter, Mr. President, and what must bother any reasonable man as he surveys the situation we are being brought to, is that the bureaucrats of HEW are attempting to build a public policy constructed largely on myth. By that I mean that they have decided, and the Nation as a whole has decided that racial segregation is bad and must be done away with.

But at the same time, too many of the employees in the Department of Health, Education, and Welfare would no doubt represent themselves as believing that social integration is good and must be enforced upon the population at all cost. Actually, Mr. President, many of these representatives, themselves, do not put into effect the beliefs that they profess to hold. The pity is that they are trying to push their fantasies onto those of both races that do not share them.

As a short digression I might now add that we know very little about the social characteristics of the operatives of HEW in the Office of Civil Rights Compliance, either here in Washington, D.C., or out plowing up the fields of southern society. I expect that we would find that the large majority of them are native to such areas of the country, where they have experienced no realistic contact with another race.

From this lack of knowledge, they have gained a mythical viewpoint on which they base actions and attitudes. They have been given by their upbringing a set of assumptions that say one thing is right and another is wrong. The social order of the South is bad and the social order that one knew as a child is good. Unfortunately, they are in a position of power to bring these assumptions into play before they have really been tested.

The point I am driving at was ably discussed by Mr. Crosby S. Noyes, a respectable columnist for the Washington Star. Mr. Noyes' column of January 29, 1970, is entitled "Accepting Enforced Integration as Dogma." In effect, the writer wonders where we are going and where the current path of enforced integration will lead us. He concludes by asking:

> Is it possible that enforced integration, in its way, is as arbitrary and ruthless—and wounding to both races—as the enforced segregation that it has replaced?

Mr. President, I ask consent that the article I have referred to be printed in the RECORD at this point. I hope Senators interested in the subject will read the article and many other articles that have been written lately.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ACCEPTING ENFORCED INTEGRATION AS DOGMA

(By Crosby S. Noyes)

We don't talk about it, but it comes home to us in small ways in any reading of the day's news.

A couple in Oklahoma City are sentenced to spend 30 days in jail and fined $1,000 each for refusing to let their 14-year-old son transfer to another school.

A survey of race relations on American military bases throughout the world warns that "all indications point to an increase of racial tensions."

In a major university, black students meet to demand a curriculum designed to the tastes and separate dormitory facilities.

Why are these things happening?

In what kind of a free society are parents fined and jailed for preferring one school for their child over another? Why are racial antagonisms on the rise in our most integrated institutions? Is the black separatism that attracts so much attention today simply an aberration that will soon disappear?

These questions, perhaps, should not be asked. Race prejudice or even race consciousness as a subject of discussion is taboo. Sixteen years ago, it was outlawed by the decree of the Supreme Court. By its ruling in 1954, the country was firmly committed to a policy of cross-the-board racial integration at all levels of the society, starting in kindergarten.

The edict, to be sure, was not an instant solution. It has been fiercely resisted in the South. It has been complied with in the North more in form than in fact. It has taken countless more court rulings, to say nothing of laws, speeches, sit-ins and demonstrations, to move a small way toward the goal. Today, in many areas, the integration of the society along racial lines is still a fairly distant goal.

But the goal is still there. The perfectly homogenized, color-blind society is a national commitment far more specific than the commitment to clean up our rivers or stop polluting our air.

Racial separatism is held as a matter of faith to be the ultimate of social evils. Its elimination—starting at the lowest level of public coercion, the elementary schools—is officially embraced as the over-all remedy to social injustice.

There are reasons which many people, perhaps most, take to be good and sufficient for faith in racial integration as a social panacea.

There is, to begin with, the legacy of slavery, which created the racial problem and left in its wake apparently inexpiable guilt on one side and inexhaustible resentment on the other.

There is, in our own generation, the monstrosity of Nazism, which branded everyone capable of feeling with an awareness of the unspeakable evils that racism can produce.

There is, finally, the theory of apartheid, with all the passions that it generates. As it is practiced today, as an institution designed to perpetuate the subjugation and exploitation of a racial majority, it is an odious and doomed concept.

Reason enough, one might suppose, for forging ahead toward the other pole. Homogenization as a cure for the evils that beset modern societies is virtually unchallenged as a virtuous and infallible nostrum. As a subject of serious scientific investigation, the question of racism is virtually off limits.

For all one can tell, the matter is settled for all time. Perhaps more than any other political or social fact of our generation, the movement toward racial integration in this country seems irreversible. Perhaps it should be.

And yet the questions still arise. People still are thrown in jail for refusing to comply with court orders. Black and white soldiers who eat, sleep and fight together also fight each other. University students demand more awareness, not less, of the color of their skins.

Before the question is asked, the premise must be established. The objectives that racial integration is supposed to achieve are essential. By one road or another, this country must achieve a successful multiracial society. Whatever legal, social, economic or educational barriers impede the advancement of black Americans must be removed.

But, having said this as loudly as possible, the question remains: Are we, in fact, in the process of replacing one corrupting dogma with another? Is it possible that enforced integration, in its way, is as arbitrary and ruthless—and wounding to both races—as the enforced segregation that it has replaced?

Mr. ELLENDER. I dislike to deal in generalities, but I suspect that many of these individuals possess a cultural background very similar to the people living in the white suburbs surrounding Washington. They work in the Capital City, they drive in every morning and out every evening, and at night they sit around at social gatherings and congratulate each other on how "liberal" they are.

LIMOUSINE LIBERALS

Many of these agents are representatives of the class characterized by the only telling phase that came out of the political contest for the mayorality of New York City last fall. These are the "limousine liberals" so-called by one of the New York candidates. They are those who refuse to accept or to allow their children to participate in the logical consequences of their actions and beliefs, but are prepared to see others, usually poorer, usually less educated, submit to the consequences.

This is blatant hypocrisy, Mr. President. It is anathema to me. The people in the big cities can run and hide and they have done so. They have fled the battleground of a changing social order. Where can the populations of the rural South, in the country parishes of Louisiana, Mississippi—from east Texas to the Carolinas—where can these people run to and hide? The anwer is that they cannot, without making tremendous financial and cultural sacrifices which they should not be called upon to bear. The answer is that the front ranks of the battlefield are being left to the poor and to the uneducated of both races.

The drafters of public policies cannot long escape public reality. The National Government is going to wake up one day and finally realize this, and I pray it will not be too late.

Mr. President, I ask that an article from the January 26, 1970, edition of the National Observer entitled "Doubts Grow About School Integration" be printed at this point in my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NORTHERN WHITES MOVE OUT—DOUBTS GROW ABOUT SCHOOL INTEGRATION

WASHINGTON, D.C.—A new word has entered the debate over segregation and integration in the nation's public schools: resegregation.

In dozens of cities, schools and school systems once almost entirely white are turning increasingly nonwhite. This trend, produced by the familiar exodus of whites to the suburbs and nonwhites to the inner cities, has been going on for more than 30 years.

Only now, however, is it becoming a matter of prime concern to Federal officials. A new Federal school survey shows that racial isolation exists in every section of the country and that its growth is most rapid in the big Northern cities. This fact is raising new doubts among many longtime integrationists about the wisdom of trying to enforce desegregation in the schools. Items:

Several years ago, the Cleveland Board of Education searched the city for a new high-school site that would permit optimum racial integration. They settled on a neighborhood

of modest owner-occupied homes near the suburb of Shaker Heights that was 60 per cent white, 40 per cent black. But when John F. Kennedy High School opened in 1965, 95 per cent of its pupils were black. "There's no question the decision to open that school accelerated the departure of whites," says Mrs. Conella Coulter Brown, administrative assistant for the Cleveland schools.

Edmondson High School on the west side of Baltimore was 80 percent white when it opened in 1957. Today there are 25 whites out of its student population of 2,700. "This is a well-kept-up residential area," says assistant principal Margery W. Harriss. "But once the school turned half-black, it turned rapidly almost 100 per cent black. The whites just moved out or took their children elsewhere."

Heavy Negro migration gave the District of Columbia's schools a Negro majority as early as 1950—four years before the Supreme Court's watershed desegregation decision. In 1970, with the schools 95 per cent nonwhite, middle-class Negroes are fleeing—just across the boundary to neighboring Prince George's County, Maryland. The interesting thing about Prince George's enrollments this year, however, is not that the number of new blacks is up but that the number of new whites is down. No one knows exactly why, but one administrator muses: "The whites are moving to other Washington suburbs rather than to Prince George's."

In city after city in the North, the story is the same: Schools once all or nearly all white are drawing nonwhites in increasing numbers. When they reach a "tipping point" of 30 to 50 per cent, the whites move out and the schools become rapidly almost entirely nonwhite.

The extent of resegregation in the North has never been known with any certainty. But the Department of Health, Education, and Welfare (HEW) undertook a survey of the racial composition of 90 per cent of the school districts in the country during the 1968–1969 school years, and fed the returns into a high-speed computer. The results, released Jan. 4, portray a system of segregated education that knows no regional boundaries.

The survey shows, for example, that 5 out of 10 Negroes outside the South attend schools 95 to 100 per cent Negro, as opposed to 7 out of 10 Negroes in the 11 Southern states. Only 25 per cent of the Negroes outside the South attend majority-white schools, as contrasted with 18 per cent of the Negroes in Southern schools.

The survey shows too that 10 of the largest 20 city school systems in the country have majority Negro enrollments. In 16 of those systems, 60 per cent or more of the Negroes go to schools 95 to 100 per cent Negro—almost totally segregated.

A STENNIS CHALLENGE

Federal officials say they are deeply troubled by the extent of segregation the survey has uncovered. Sen. John Stennis, Mississippi Democrat, first previewed the findings in a series of speeches in December, in which he challenged the Government to pursue desegregation in the North with the same vigor it is pursuing desegregation in the South. "If segregation is wrong in the public schools of the South," he argued, "it is wrong in the public schools of all other states."

Mr. Stennis made the point in arguing that the Government should ease up on its efforts to promote desegregation of schools. Leon E. Panetta, HEW's chief civil-rights officer, on the other hand, told Congress two months ago that the answer is not to make segregation legal in the South but to pass legislation making it illegal everywhere.

Last week, in a pensive mood, Mr. Panetta reflected on the emerging pattern of resegregation in America and said: "Nobody really is considering what the answers to this situation are, and whether there aren't new injustices resulting from rectifying gross past injustices."

Ever since the Supreme Court held in 1954 that state-supported racial segregation was a denial of equal educational opportunity, the courts have been trying to undo the vestiges of the South's dual school system. With the passage of the 1964 Civil Rights Act, the Justice Department and HEW joined the battle to force recalcitrant school districts to adopt plans of racial balance.

TURNING ATTENTION NORTH

In the past two years, both agencies have begun turning their attention to school discrimination outside the South, but only a handful of non-Southern districts have been cited for discrimination. This is because racial separation in Northern districts is generally regarded as *de facto* segregation, a result of housing patterns, rather than—as in the South—*de jure*, the result of official law or policy.

Last week, in the second of seven suits filed by the Justice Department in non-Southern districts, a Federal district court ordered the Pasadena, Calif., school board to put into effect by next September a desegregation plan that would give none of its schools a nonwhite majority. The district—30 per cent black, 58 per cent white, and 12 per cent other minorities—was accused of discriminating in the making of school district boundaries, teacher assignments and in other ways.

So far, few courts have held that the existence of *de facto* segregation itself is proof of discrimination, and the Supreme Court has not ruled on the issue. Yet the disparity continues between what is forbidden in the South and what is tolerated in the North, and the pattern of Northern separation begins to look more like its Southern counterpart.

For example, 17 Florida school systems, with two-thirds of the state's pupil population, are currently under Federal court orders to desegregate, two of them by Feb. 1 under a Supreme Court order. Seventy-two per cent of the Negro students in Florida attend schools in which Negroes constitute 95 to 100 per cent of the enrollment.

Yet 72 per cent of the Negro students in Illinois, according to the HEW survey, also attend schools with 95 to 100 per cent Negro enrollment, and there are no court orders compelling desegregation in Illinois. In fact, it can be argued there is more segregation in Illinois than in Florida. Theoretically it should be easier for Illinois, where Negroes make up 18 per cent of the student population, to place Negroes in majority-white schools than for Florida, where they make up 23.2 per cent. Yet there are proportionately more Negroes in majority-white schools in Florida (23.2 per cent) than in Illinois (13.6).

It seems likely that the courts will not for long be able to postpone consideration of such discrepancies in the application of national law. For a few Southern school districts, which have desegregated in accordance with the law, now find themselves victims of resegregation, ostensibly as a result of shifting housing patterns. One such district is Atlanta, where integration began eight years ago as the result of court suits initiated by the NAACP and other civil-rights groups.

TWO ESCAPE ROUTES

Since that time, 25 schools that were formerly all-white have turned predominantly black, as white parents have followed one of the two legal escape routes open to them: a private school or a home in the suburbs. Today, the school system, predominantly white before integration, is two-thirds black, but adjoining, suburban school systems are 80 to 95 per cent white.

If this appears to be *de facto* segregation Northern-style, Atlanta—because it had a dual school system until recently—is nonetheless still subject to a Supreme Court order of Jan. 14, requiring desegregation of schools in Georgia and four other Southern states by Feb. 1.

Southerners have long been grumbling about what they wryly refer to as "this dual system of justice" (one for the North, another for the South), and they are beginning to organize to combat it. Last week, Florida's Gov. Claude Kirk appealed to the U.S. Supreme Court to set national desegregation standards that would affect all 50 states. And the attorneys general of Louisiana, Mississippi, and Alabama announced a joint legal effort designed to ensure that "the same rules for administration of public schools" imposed by the Federal courts in the South "apply to all other states."

The forces attempting to undermine enforced desegregation will get an unexpected assist next month with the publication of a book by Harper & Row, which challenges the Constitutional basis of court-ordered integration.

Entitled *The Supreme Court and the Idea of Progress*, and written by Yale University's Alexander M. Bickel, a Constitutional law authority of impeccable credentials among civil-rights advocates, the book is an expanded version of the Holmes Lectures, which Professor Bickel delivered at Harvard Law School in October.

In a chapter on the Supreme Court's desegregation rulings, Professor Bickel argues the Court, beginning with the history-making *Brown v. Board of Education* decision in 1954, should have contented itself with finding that legally enforced school segregation is unconstitutional.

DUBIOUS SOCIOLOGY?

In going beyond that principle to argue that separate educational facilities are inherently unequal, says Professor Bickel, the Court based its reasoning on dubious sociology and a parochial view of American education, which holds that education's main duty is to promote assimilation. As a result, says Mr. Bickel:

"In most of the larger urban areas, demographic conditions are such that no policy that a court can order, and a school board, a city, or even a state has the capability to put into effect, will in fact result in the foreseeable future in racially balanced public schools."

Enforced desegregation, in other words, will merely force more whites into the suburbs or into private schools, leaving, Professor Bickel argues, only the poor—black and white—in the city schools.

It should be noted that there are many successful experiments in racial desegregation of schools. Several dozen Northern school districts, according to HEW estimates, have achieved full and voluntary integration by such techniques as altering attendance zones, busing, and pairing of students to achieve racial balance. In White Plains, N.Y., for example, a quota system introduced in 1964 has not resulted in an exodus of whites. No school may have more than a 30 per cent or less than a 10 per cent enrollment of minority-group students.

But such plans, officials say, generally work in small or medium-size cities (White Plains' population: 65,000), where the population is stable and the blacks are in the minority. They often require, in addition, a rare degree of local leadership.

Central cities, on the other hand, experienced an increase of 2,400,000 in the Negro population between 1960 and 1968, and a decline of 2,100,000 in the white population, according to Census Bureau figures. While the figures are open to various interpretations, they nonetheless make it clear that great numbers of whites do not consider integration a primary social goal.

CHANGING NONWHITE ATTITUDE

Integration seems to be losing its attraction among nonwhites as well, at least as a short-run goal. Civil-rights leader James Farmer, now a high Nixon Administration official, said recently he has stopped trying to "sell Negro audiences on integration." The reason: "They don't agree on it any more."

In Philadelphia, where 60 per cent of the Negro school children attend schools that are 95 to 100 per cent Negro, officials report waning enthusiasm for busing black students to white schools to relieve overcrowding. "The people want to go to their neighborhood school," says school spokesman Robert S. Finarelli. "It's the state, not local people, pressing us for a desegregation plan."

The educational argument for integrated schools is based on the premise that minority-group children make their greatest achievement gains in an integrated environment. Numerous studies over the years, including the mammoth Coleman Report, issued by the U.S. Office of Education in 1966, have documented this thesis.

Conversely, there is relatively little information to indicate that spending more money in black schools in the slums does much good. "Most experiments in improving ghetto education have, quite frankly, been failures," says a U.S. Office of Education official.

That is why Government "integrationists" are so disturbed by the new findings of racial resegregation in the public schools. Leon Panetta, HEW's 31-year-old civil-rights chief, throws up his hands and shrugs. "We need a congressional examination of this whole question of the results of integration," he says. "In the meantime, we do what the law says we should do."

RACIAL ISOLATION IN PUBLIC SCHOOLS
(1968-69 SCHOOL YEAR)

City	Negro percent of total students	Percent Negroes in majority white schools	Percent Negroes in 95 to 100 percent Negro schools
District of Columbia	93.5	0.9	89.2
Chicago	52.9	3.2	85.4
Los Angeles	22.6	4.7	78.5
New York City	31.5	19.7	43.9
Houston	33.3	5.3	86.4
Baltimore	65.1	7.7	75.8
Dallas	30.8	2.1	82.2
Philadelphia	58.8	9.6	59.8
Indianapolis	33.7	22.4	52.9
Boston	27.1	23.3	33.6
Pittsburgh	39.2	21.3	42.7
Kansas City, Mo	46.8	14.0	67.3
Buffalo	36.6	27.0	61.1
Oklahoma City	21.8	12.5	79.7
St. Louis	63.5	7.1	86.2
Atlanta	61.7	5.4	90.0
Orleans Parish, La. (New Orleans)	67.1	8.8	81.2
Newark	72.5	2.1	75.8
Gary, Ind	61.6	3.1	80.8
Rochester, N.Y	28.9	45.6	12.1
Fresno, Calif	9.0	15.8	72.5
Omaha, Nebr	18.1	20.5	38.3

Source: Department of Health, Education, and Welfare.

Mr. ELLENDER. Mr. President, this article discusses the material on public school segregation in the North, contrasted to the South, which my colleague, the distinguished Senator from Mississippi, has been attempting to bring to the attention of the Nation.

Among other things, it points out that, in New Orleans and Atlanta and Houston, there is a far greater percentage of Negroes currently in school with a majority of whites than there is in such northern cities as Chicago, Newark, or Los Angeles.

But my primary motive in bringing this article to the attention of the Senate is not the facts and figures which I hope are becoming well known by now. One section of the article deals with a new book to be published this month, which challenges the constitutional basis of court-ordered integration.

My staff has attempted to get an advance copy of this volume but so far to little avail. I point out, however, that this study referred to was not written by a southerner or one in sympathy with the southern way of life. Since the book is not at hand, I will quote five short paragraphs from the newspaper article:

Entitled *The Supreme Court and the Idea of Progress*, and written by Yale University's Alexander M. Bickel, a Constitutional law authority of impeccable credentials among civil-rights advocates, the book is an expanded version of the Holmes Lectures, which Professor Bickel delivered at Harvard Law School in October.

In a chapter on the Supreme Court's desegregation rulings, Professor Bickel argues the Court, beginning with the history-making *Brown v. Board of Education* decision in 1954, should have contented itself with finding that legally enforced school segregation is unconstitutional.

Dubious Sociology?

In going beyond that principle to argue that separate educational facilities are inherently unequal, says Professor Bickel, the Court based its reasoning on dubious sociology and a parochial view of American education, which holds that education's main duty is to promote assimilation. As a result, says Mr. Bickel:

"In most of the larger urban areas, demographic conditions are such that no policy that a court can order, and a school board, a city, or even a state has the capability to put into effect, will in fact result in the foreseeable future in racially balanced public schools."

Enforced desegregation, in other words, will merely force more whites into the suburbs or into private schools, leaving, Professor Bickel argues, only the poor—black and white—in the city schools.

This analysis, Mr. President, buttresses and documents what I have been trying heretofore to make clear. That is that the National Government is rushing in where angels would fear to tread, and without either heavenly or constitutional authority.

Although I could not obtain copies of Professor Bickel's work for presentation in this debate, I noticed that an article by him dealing with this same question appears in the New Republic of February 7. This is entitled "Desegregation: Where Do We Go From Here?" This noted liberal authority asked questions that should demand answers from the Government.

He desires to know:

What is the use of a process of racial integration in the schools that very often produces, in absolute numbers, more black and white children attending segregated schools than before the process was put into motion?

In essence, he is saying that freedom of choice has a constitutional and cultural validity that cannot be ignored.

He also wants to know if we can "any longer fail to acknowledge that the Federal Government is attempting to create in the rural South conditions that cannot in the foreseeable future be attained in large or medium urban centers in the South or in the rest of the country?"

He says the Government is seen as applying its law unequally and unjustly. That, I might add, is the same way the people of the South see their Government.

Professor Bickel closes with a statement which I find memorable in its good sense and simplicity. The fact that he feels such a statement must be made shows how far away from commonsense the Government has come. He states:

Massive school integration is not going to be attained in this country very soon, in good part because no one is certain that it is worth the cost. Let us, therefore, try to proceed with education.

The point is, Mr. President, that the bureaucratic operatives active in the South have said, in effect, "hang the cost." As a result of this attitude, the people of the South of both races are seeing their system of public education go down the drain. I am aware that 16 years have passed since the Supreme Court decision in Brown against Board of Education, but I am also aware that the situation existing in the North has been with us for more than one-quarter of a century. The South has no reason to apologize for the progress that has been made in this area.

Mr. President, I ask that a copy of this article I have been referring to be included in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New Republic, Feb. 9, 1970]

DESEGREGATION: WHERE DO WE GO FROM HERE?

(By Alexander M. Bickel)

(NOTE.—Alexander M. Bickel, contributing editor to this journal since 1957, is Chancellor Kent, professor of law and legal history at Yale. His book, The Supreme Court and the Idea of Progress, is being published this month by Harper and Row.)

It will be sixteen years this May since the Supreme Court decreed in *Brown v. Board of Education* that the races may not be segregated by law in the public schools, and six years in July since the doctrine of the *Brown* case was adopted as federal legislative and executive policy in the Civil Rights Act of 1964. Yet here we are, apparently struggling still to desegregate schools in Mississippi, Louisiana and elsewhere in the deep South, and still meeting determined resistance, if no longer much violence or rioting.

The best figures available indicate that only some 23 percent of the nationwide total of more than six million Negro pupils go to integrated public schools. About half the total of more than six million Negro pupils are in the South, and there the percentage of Negroes in school with whites is only 18.

What has gone wrong? The answer is, both less and a great deal more than meets the eye; it is true both that the school desegregation effort has been a considerable success, and that it has not worked.

The measure of the success is simply taken. Sixteen years ago, local law, not only in the 11 Southern states but in border states, in parts of Kansas, in the District of Columbia, forbade the mixing of the races in the schools, and official practice had the same effect in some areas in the North, for example portions of Ohio and New Jersey. Ten years ago, Southern communities were up in arms, often to the point of rioting or closing the public schools altogether, over judicial decrees that ordered the introduction of a dozen

or two carefully selected Negro children into a few previously all-white schools. There are counties in the deep South that still must be reckoned as exceptions, but on the whole, the principle of segregation has been effectively denied, those who held it have been made to repudiate, it, and the rigid legal structure that embodied it has been destroyed. That is no mean achievement, even though it still needs to be perfected and completed, and it is the achievement of law, which had irresistible moral force, and was able to enlist political energies in its service.

The achievement is essentially Southern. The failure is nationwide. And the failure more than the achievement is coming to the fore in those districts in Mississippi and Louisiana where the Supreme Court and a reluctant Nixon Administration are now enforcing what they still call desegregation on very short deadlines. In brief, the failure is this: To dismantle the official structure of segregation, even with the cooperation in good faith of local authorities, is not to create integrated schools, anymore than integrated schools are produced by the absence of an official structure of school segregation in the North and West. The actual integration of schools on a significant scale is an enormously difficult undertaking, if a possible one at all. Certainly it creates as many problems as it purports to solve, and no one can be sure that even if accomplished, it would yield an educational return.

School desegregation, it will be recalled, began and for more than a decade was carried out under the so-called "deliberate speed" formula. The courts insisted that the principle of segregation and, gradually, all its manifestations in the system of law and administration be abandoned; and they require visible proof of the abandonment, namely, the presence of black children in school with whites. The expectation was that a school district which had been brought to give up the objective of segregation would gradually reorganize itself along other nonracial lines, and end by transforming itself from a dual into a unitary system.

All too often, that expectation was not met. The objective of segregation was not abandoned in good faith. School authorities would accept a limited Negro presence in white schools, and would desist from making overt moves to coerce the separation of the races, but would manage nevertheless to continue operating a dual system consisting of all black schools for the vast majority of Negro children, and of white and a handful of nearly white schools for all the white children. This was sham compliance—tokenism it was contemptuously called, and justly so—and in the past few years, the Supreme Court, and HEW acting under the Civil Rights Act of 1964, determined to tolerate it no longer.

HEW and some lower federal courts first raised the ante on tokenism, requiring stated percentages of black children in school with whites. Finally they demanded that no school in a given system be allowed to retain its previous character as a white or black school. Faculties and administrators had to be shuffled about so that an entirely or almost entirely black or white faculty would no longer characterize a school as black or white. If a formerly all-Negro school was badly substandard, it had to be closed. For the rest, residential zoning, pairing of schools by grades, some busing and majority-to-minority transfers were employed to ensure distribution of both races through the school system. In areas where blacks were in a majority, whites were necessarily assigned to schools where they would form a minority. All this has by no means happened in every school district in the South, but it constitutes the current practice of desegregation. Thus among the decrees recently enforced in Mississippi, the one applicable in Canton called for drawing an East-West attendance line through the city so that each school became about 70 percent black and 30 percent white. Elsewhere schools were paired to the same end.

It bears repeating that such measures were put into effect because the good faith of school authorities was in doubt, to say the least, and satisfactory evidence that the structure of legally enforced segregation had been eliminated was lacking. But whatever, and however legitimate, the reasons for imposing such requirements, the consequences have been perverse. Integration soon reaches a tipping point. If whites are sent to constitute a minority in a school that is largely black, or if blacks are sent to constitute something near half the population of a school that was formerly white or nearly all-white, the whites flee, and the school becomes all or nearly all-black; resegregation sets in, blacks simply changing places with whites. The whites move, within a city or out of it into suburbs, so that under a system of zoning they are in white schools because the schools reflect residential segregation; or else they flee the public school system altogether, into private or parochial schools.

It is not very fruitful to ask whether the whites behave as they do because they are racists, or because everybody seeks in the schools some sense of social, economic, cultural group identity. Whatever one's answer, the whites do flee, or try to, whether in a Black Belt county where desegregation has been resisted for 16 years in the worst of faith and for the most blatant of racist reasons, or in Atlanta, where in recent years, at any rate, desegregation has been implemented in the best of faith, or in border cities such as Louisville, St. Louis, Baltimore or Washington, DC, where it was implemented in good faith 15 years ago, or in Northern cities where legal segregation has not existed in over half a century. It is feckless to ask whether this should happen. The questions to ask are whether there is any way to prevent the whites' fleeing, or whether there are gains sufficient to offset the flight of the whites in continuing to press the process of integration.

To start with the second question, a negative answer seems obvious. What is the use of a process of racial integration in the schools that very often produces, in absolute numbers, more black and white children attending schools than before the process was put into motion? The credible disestablishment of a legally enforced system of segregation is essential, but it ought to be possible to achieve it without driving school systems past the tipping point of resegregation—and perhaps this, without coming right out and saying so, is what the Nixon Administration has been trying to tell us. Thus in Canton, Mississippi, a different zoning scheme would apparently have left some all-black and all-white schools, but still put about thirty-five percent of black pupils in schools with whites.

We live by principles, and the concrete expression in practice of the principles we live by is crucial. *Brown* v. *Board of Education* held out for us the principle that it is wrong and ultimately evil to classify people invidiously by race. We would have mocked that principle if we had allowed the South to wipe some laws formally off its books, and then continue with segregation as usual, through inertia, custom, and the application of private force. But substantial, concrete changes vindicating the principle of the *Brown* case were attainable in the South without at the same time producing the absurd result of resegregation.

This argument assumes, however, that the first of the two questions posed above is also to be answered in the negative. Is there, in truth, no way to prevent resegregation from occurring? Approaching the problem as one of straight feasibility, with no normative implications, one has to take account of an important variable. It is relatively simple to make flight so difficult as to be just about impossible for relatively poor whites in rural areas in the South. There is little residential segregation in these areas, and there is no place to move to except private schools. State and local governments can be forbidden to aid such private schools with tuition grants paid to individual pupils, and the Supreme Court has so forbidden them. Private schools can also be deprived of federal tax exemption unless they are integrated, and a federal court in the District of Columbia has at least temporarily so deprived them. They can be deprived of state and local tax aid as well. Lacking any state support, however indirect, for private schools, all but well-to-do or Catholic whites in the rural and small-town South will be forced back into the public schools, although in the longer run, we may possibly find that what we have really done is to build in an incentive to residential segregation, and even perhaps to substantial population movement into cities.

On a normative level, is it right to require a small, rural and relatively poor segment of the national population to submit to a kind of schooling that is disagreeable to them (for whatever reasons, more or less unworthy), when we do not impose such schooling on people, in cities and in other regions, who would also dislike it (for not dissimilar reasons, more or less equally worthy or unworthy?)[1] This normative issue arises because the feasibility question takes on a very different aspect in the cities. Here movement to residentially segregated neighborhoods or suburbs is possible for all but the poorest whites, and is proceeding at a rapid pace. Pursuit of a policy of integration would require, therefore, pursuit of the whites with busloads of inner-city Negro children, or even perhaps with trainloads or helicopterloads, as distances lengthen. Very substantial resources would thus be needed. They have so far nowhere been committed, in any city.

One reason they have not is that no one knows whether the enterprise would be educationally useful or harmful to the children, black and white. Even aside from the politics of the matter, which is quite a problem in itself, there is a natural hesitancy, therefore, to gamble major resources on a chase after integration, when it is more than possible that the resources would in every sense be better spent in trying to teach children how to read in place. Moreover, and in the long view most importantly, large-scale efforts at integration would almost certainly be opposed by leading elements in urban Negro communities.

Polls asking abstract questions may show what they will about continued acceptance of the goal of integration, but the vanguard of black opinion, among intellectuals and political activists alike, is oriented more toward the achievement of group identity and some group autonomy than toward the use of public schools as assimilationist agencies.

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[1] For instance a UPI dispatch from Oklahoma City dated January 20 as follows:

"Mrs. Yvonne York, mother of a 14-year-old boy taken into custody for defying a federal desegregation order, said today she will take the case to the Supreme Court. US District Judge Luther Bohanon last week ordered the Yorks to enroll their son Raymond at Harding Junior High in compliance with desegregation rulings. The boy had been enrolled at Taft Junior High a few blocks from his home. Harding is four miles from his home. Raymond was taken into custody yesterday by federal marshals when Mrs. York tried to enroll him at Taft. He was detained for a few hours." A city councilman is quoted as saying, "The people of Oklahoma are fed up with forced busing and federal court orders running our schools. We demand an end to this madness."

In part this trend of opinion is explained by the ineffectiveness, the sluggishness, the unresponsiveness, often the oppressiveness of large urban public school systems, and in part it bespeaks the feeling shared by so many whites that the schools should, after all, be an extension of the family, and that the family ought to have a sense of class and cultural identity with them. And so, while the courts and HEW are rezoning and pairing Southern schools in the effort to integrate them, Negro leaders in Northern cities are trying to decentralize them, accepting their racial character and attempting to bring them under community control. While the courts and HEW are reassigning faculties in Atlanta to reflect the racial composition of the schools and to bring white teachers to black pupils and black teachers to white ones, Negro leaders in the North are asking for black principals and black teachers for black schools.

Where we have arrived may be signaled by a distorted mirror image that was presented in the Ocean Hill-Brownsville decentralized experimental school district in New York during the teachers' strikes of the fall of 1968. A decade earlier, black children in Little Rock and elsewhere in the South were escorted by armed men through white mobs to be taught by white teachers. In Ocean Hill-Brownsville in 1968, white teachers had to be escorted by armed men through black mobs to teach black children.

Can we any longer fail to acknowledge that the federal government is attempting to create in the rural South conditions that cannot in the foreseeable future be attained in large or medium urban centers in the South or in the rest of the country? The government is thus seen as applying its law unequally and unjustly, and is, therefore, fueling the politics of George Wallace. At the same time, the government is also putting itself on a collision course with the aspirations of an articulate and vigorous segment of national Negro leadership. Even if we succeed at whatever cost, in forcing and maintaining massively integrated school systems in parts of the rural South, may we not find ourselves eventually dismantling them again at the behest of blacks seeking decentralized community control?

There must be a better way to employ the material and political resources of the federal government. The process of disestablishing segregation is not quite finished, and both HEW and the courts must drive it to completion, as they must also continually police the disestablishment. But nothing seems to be gained, and much is risked or lost, by driving the process to the tipping point of resegregation. A prudent judgment can distinguish between the requirements of disestablishment and plans that cannot work, or can work only, if at all, in special areas that inevitably feel victimized.

There are black schools all over the country. We don't really know what purpose would be served by trying to do away with them, and many blacks don't want them done away with. Energies and resources ought to go into their improvement and, where appropriate, replacement. Energies and resources ought to go into training teachers, and into all manner of experimental attempts to improve the quality of education. The involvement of cohesive communities of parents with the schools is obviously desired by many leaders of Negro opinion. It may bear educational fruit, and is arguably an inalienable right of parenthood anyway. Even the growth of varieties of private schools, hardly integrated, but also not segregated, and enjoying state support through tuition grants for blacks and whites alike, should not be stifled, but encouraged in the spirit of an unlimited experimental search for more effective education. Massive school integration is not going to be attained in this country very soon, in good part because no one is certain that it is worth the cost. Let us, therefore, try to proceed with education.

Mr. ELLENDER. Mr. President, I shall be glad to answer any questions. I do not see too many Senators present, except my friend from Mississippi and my friend from Oregon. I hope Senators who have not been present will read the speeches made by my good friend from Mississippi. The fact is that what the Senator from Mississippi has proposed merely tries to put on the statute books of Congress a law similar to that which is now the law in the State of New York.

I yield the floor.

Mr. STENNIS. Mr. President, will the Senator yield to me before he yields the floor?

Mr. ELLENDER. I yield.

Mr. STENNIS. Mr. President, I certainly want to express my appreciation, and I believe I express that of many more Senators, for the speech the Senator from Louisiana has made this morning. I was in and out of the Chamber somewhat, frankly. I had some other duties in connection with this same subject matter. But I know the Senator discussed major points in his very fine and thorough way and that he referred with great learning to those sections of the Civil Rights Act of 1964 which are pertinent. I am referring now particularly to the first section under title IV and also section 407 that comes under the heading "Suits by the Attorney General."

I shall read every word the Senator had to say about the way that part of that act of Congress is being ignored by the Supreme Court of the United States, or just omitted or skipped. If I may say so, it reminds me of the little boy studying his spelling lesson. There were three words he did not know how to spell. His mother insisted on his learning them. He said, "Mother, I will just skip those."

With all deference, I think the Court has just skipped some of those sections. As I understand, the Court bases its opinions simply on the 14th amendment to the Constitution. There has never been any reference to those sections that the Senator has discussed, except a little footnote in one of the decisions, which shows that the members of the Court knew it was there, but, for some reason, it did not apply.

I want to emphasize what the Senator has said about the indescribable confusion that exists at the school level—the trustees, teachers, administrators, and parents honestly trying to carry out the mandate of the Court. They do not know what it means, and no one can tell them exactly what it means. There is no definition of what is a unitary school system. There are many other boundaries that are not defined.

According to my examination, every time a court of appeals has undertaken to make some definitions on this subject matter, it has been rebuffed by the Supreme Court and told, "That is wrong." The Supreme Court never has said, though, what are the rules, what are the boundaries, and what these phrases mean.

I have sought the opinion of attorneys who are the best not only in my State, but the best in the South, and some of the best in the United States. I have sought definite information from the Office of the Attorney General of the United States. Frankly, they do not know exactly what the decree means when it comes to the application of it at the ground level, and that is the thing that counts.

Mr. ELLENDER. I have great faith in our Attorney General. I think he understands the law, but, somehow, he is held back in some way. When a department such as HEW can write guidelines which any school board can read, and then one reads the law, he realizes the contradiction.

What impresses me with the Senator's amendment is that here is the great State of New York being able to do what we cannot do, and yet we are both in the Union. Each of us is one of the 50 States.

That is what confounds a lot of people, that those who were instrumental in forcing the issue on the South are not being required to live up to the law as rewritten by HEW and by the courts.

Mr. STENNIS. The Senator certainly states it well. And back to this confusion, now—and this is at the school level—this is something that the Senator from Louisiana knows something about because of personal contact with it. The Senator from Mississippi knows something about it for the same reason.

There is no one able to tell the school districts exactly what these decrees means. Now the President of the United States, for the first time in the history of the Nation, has felt compelled to appoint a commission at the highest level, with Mr. AGNEW, the Vice President, as its head, and in his statement in announcing the formation of the commission the Vice President said—I shall use his exact words as I have them here from the transcript of his appearance on television—that the commission is created "to achieve the spirit and the letter of the court decisions in a way that might least impair the continuance of quality education."

That is a very significant thing, for the President of the United States to find the chaos, confusion, and uncertainty so great that he felt compelled to appoint this high-level commission to help tell the school districts what the Supreme Court meant and, as the Vice President said, to apply those decisions in such a way as would "least impair the continuance of quality education."

That brings into the question, too, the fact that there is a concern about quality education. There is a concern in the White House, in the President's mind. I not only applaud him for being concerned, but could tell him that that concern is shared by the smallest, humblest, most remote parent with children in the schools of the South; and, if it is ever applied in the North and East, parents there will be concerned about it.

They do not know what to do. They do not know how to comply. There has not been one iota of resistance, or anything like that, throughout the South. Newscasters rather recklessly use the

term "defiance." I called on one of them and said, "What are you talking about, 'defiance'?"

He said, "Well, the teachers would not go teach, and the students would not go to the schools."

There is nothing in the law or Constitution or anywhere else that requires a teacher to teach except under the terms of her contract. The Lord knows how much misery they have been through in trying to make these decisions. But it is not a matter of resistance; and I point out that there is not a single one of these southern school districts that were delinquent or charged with contempt of court, or that anyone claims had not carried out every mandate of the Court, when these cases were jerked up by the Court and they said, "Do it now; total integration now."

We come here with this bill, and so far those who represent the position opposite to ours have barely raised their voices in this debate. They do not deny the facts. They do not deny the pattern. They have not yet denied the discrimination that is shown by the policy, the Government policy, the policy of HEW, in carrying out these so-called guidelines. I have never before seen anything like it, since I have been here. Total silence.

At the same time, they are building it up in the newspapers. The New York Times this morning carried a distressing story about the disturbance, the chaos, and the confusion based on this subject matter throughout the Nation. The Senator from Mississippi is not happy to see news like that, but it confirms exactly what we are saying.

People have been led to believe—it was said here in December—that there is a little handful of districts left that are resisting. That was said when we argued the amendment to the appropriation bill. Some Senators said, "This is old hat. There are just a few districts left that are resisting."

They could not have been more mistaken. All the districts in the East and the North that might be disturbed about this matter have not had a chance to show their objection, because they have not been called on to do anything.

That is what the amendment does. It just says, "Give us a uniform policy." In this Chamber of growing silence here, there is no answer to these charges, no denial of them, no suggestions. Not anything.

I thank the Senator from Louisiana very much.

Mr. ELLENDER. Mr. President, as the Senator knows, this bill is intended to improve the situation of education throughout the country. As I understand, we are providing an authorization of about $35 billion, over a period of 4 years, in order to help elementary and secondary education.

Yet, much of these funds, and funds they are now receiving, are being used to bus children from one school to another, for no reason whatever. I am hava résumé prepared of the cost of that, and I hope to be able to present it to the Senate in a very short time.

Mr. STENNIS. I thank the Senator.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Geisler, one of his secretaries.

REORGANIZATION PLAN NO. 1 OF 1970—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 91-222)

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which, with the accompanying paper, was referred to the Committee on Government Operations:

To the Congress of the United States:

We live in a time when the technology of telecommunications is undergoing rapid change which will dramatically affect the whole of our society. It has long been recognized that the executive branch of the Federal government should be better equipped to deal with the issues which arise from telecommunications growth. As the largest single user of the nation's telecommunications facilities, the Federal government must also manage its internal communications operations in the most effective manner possible.

Accordingly, I am today transmitting to the Congress Reorganization Plan No. 1 of 1970, prepared in accordance with chapter 9 of title 5 of the United States Code.

That plan would establish a new Office of Telecommunications Policy in the Executive Office of the President. The new unit would be headed by a Director and a Deputy Director who would be appointed by the President with the advice and consent of the Senate. The existing office held by the Director of Telecommunications Management in the Office of Emergency Preparedness would be abolished.

In addition to the functions which are transferred to it by the reorganization plan, the new Office would perform certain other duties which I intend to assign to it by Executive order as soon as the reorganization plan takes effect. That order would delegate to the new Office essentially those functions which are now assigned to the Director of Telecommunications Management. The Office of Telecommunications Policy would be assisted in its research and analysis responsibilities by the agencies and departments of the Executive Branch including another new office, located in the Department of Commerce.

The new Office of Telecommunications Policy would play three essential roles:

1. It would serve as the President's principal adviser on telecommunications policy, helping to formulate government policies concerning a wide range of domestic and international telecommunications issues and helping to develop plans and programs which take full advantage of the nation's technological capabilities. The speed of economic and technological advance in our time means that new questions concerning communications are constantly arising, questions on which the government must be well informed and well advised. The new Office will enable the President and all government officials to share more fully in the experience, the insights, and the forecasts of government and non-government experts.

2. The Office of Telecommunications Policy would help formulate policies and coordinate operations for the Federal government's own vast communications systems. It would, for example, set guidelines for the various departments and agencies concerning their communications equipment and services. It would regularly review the ability of government communications systems to meet the security needs of the nation and to perform effectively in time of emergency. The Office would direct the assignment of those portions of the radio spectrum which are reserved for government use, carry out responsibilities conferred on the President by the Communications Satellite Act, advise State and local governments, and provide policy direction for the National Communications System.

3. Finally, the new Office would enable the executive branch to speak with a clearer voice and to act as a more effective partner in discussions of communications policy with both the Congress and the Federal Communications Commission. This action would take away none of the prerogatives or functions assigned to the Federal Communications Commission by the Congress. It is my hope, however, that the new Office and the Federal Communications Commission would cooperate in achieving certain reforms in telecommunications policy, especially in their procedures for allocating portions of the radio spectrum for government and civilian use. Our current procedures must be more flexible if they are to deal adequately with problems such as the worsening spectrum shortage.

Each reorganization included in the plan which accompanies this message is necessary to accomplish one or more of the purposes set forth in section 901(a) of title 5 of the United States Code. In particular, the plan is responsive to section 901(a)(1), "to promote the better execution of the laws, the more effective management of the executive branch and of its agencies and functions, and the expeditious administration of the public business;" and section 901(a)(3), "to increase the efficiency of the operations of the government to the fullest extent practicable."

The reorganizations provided for in this plan make necessary the appointment and compensation of new officers, as specified in sections 3(a) and 3(b) of the plan. The rates of compensation fixed for these officers are comparable to those fixed for other officers in the executive branch who have similar responsibilities.

This plan should result in the more efficient operation of the government. It is not practical, however, to itemize or aggregate the exact expenditure reductions which will result from this action.

The public interest requires that government policies concerning telecommunications be formulated with as much sophistication and vision as possible. This

reorganization plan—and the executive order which would follow it—are necessary instruments if the government is to respond adequately to the challenges and opportunities presented by the rapid pace of change in communications. I urge that the Congress allow this plan to become effective so that these necessary reforms can be accomplished.

RICHARD NIXON.

THE WHITE HOUSE, *February 9, 1970.*

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1969

The Senate continued with the consideration of the bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes.

ORDER FOR RECOGNITION OF SENATOR RIBICOFF

Mr. STENNIS. Mr. President, in behalf of the Senator from Connecticut (Mr. RIBICOFF), I ask unanimous consent that he be recognized to speak on the subject matter of the pending amendment at 1:30 p.m. today.

Mr. JAVITS. Mr. President, reserving the right to object—and I shall object unless a time is fixed for his speech—how long will he speak?

Mr. STENNIS. It is not a long speech. There may be some colloquy. I would not know. It will certainly not be an extended speech. We could say not to exceed 1 hour.

Mr. JAVITS. One hour, that is fine; at the end of which time he will yield the floor?

Mr. STENNIS. Well, if he should be engaged in colloquy, he might ask for a reasonable extension.

Mr. JAVITS. But what I wanted to know is whether the floor would again be within the control of the chair at 2:30.

Mr. STENNIS. Oh, yes.

Mr. JAVITS. I understand that the Senator might ask for an extension.

Mr. STENNIS. Oh, yes. It certainly will be. I am glad that the Senator made that clear; it had not occurred to me, because the Senator from Connecticut told me he would take about 40 minutes.

The PRESIDING OFFICER. The Senator from Mississippi requests that, at 1:30 today, the Senator frdom Connecticut (Mr. RIBICOFF) be recognized for a period of 1 hour. Is there objection to the request of the Senator from Mississippi?

Mr. JAVITS. And that at the conclusion of the 1 hour, the floor will again be under the control of the Chair.

The PRESIDING OFFICER. After which the floor will again be under the control of the chair. Is there objection to the request of the Senator from Mississippi? There being no objection, it is so ordered.

Mr. EASTLAND. Mr. President, I strongly support the amendment of my distinguished colleague from Mississippi to preserve and validate the concept of freedom of choice in the operation of our public school systems.

Unless some action is taken by Congress to restate the true meaning of the Constitution and laws of the United States by reiterating that the parents and students of this Nation have a right to decide which schools the children will attend, then surely there will be serious disruptions and breakdowns in the operations of our schools, not just in the South, but in all sections of this Nation.

Mr. STENNIS. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. EASTLAND. I yield.

Mr. STENNIS. Mr. President, a part of this request is that my remarks come at the end of the remarks of the Senator from Mississippi.

Mr. EASTLAND. I spoke on this floor on December 16, 1969, on the HEW appropriations bill, and attempted to point out the serious effects being caused in my State as a result of court ordered destruction of freedom of choice. I noted some specific examples of the horrible results of the destruction of freedom of choice brought about by Federal coercive action. I stated that I was certain that more outrageous events would occur as more and more of our schools and children became the pawns in this monstrous sociological experiment conducted by HEW and the Federal courts.

It is painful to me that my predictions are turning out to be true. I certainly take no pride or pleasure in seeing these prophecies fulfilled. However, it is my duty to report the truth and not to gloss over tragic facts. It is only from an understanding of past mistakes that we can learn how not to repeat them. Since my speech of December 16, a number of school districts have been brought under the "instant chaos" orders of the Federal courts. As a result of these new developments, more school systems have been totally ruined in Mississippi and throughout the South. For example, prior to December 31, 1969, there were 2,757 colored students and 779 white students in attendance in the Wilkinson County public schools. As a result of the stringent integration order entered by the Fifth Circuit Court of Appeals, every single white child has withdrawn from the public system. The public schools of that county are completely segregated, in that only black students are in attendance. The white children of the county are attending private schools. Prior to the entry of the extreme order of the Fifth Circuit Court of Appeals there was some integration in the public schools of that county. The schools were operating under a "freedom of choice" plan while the integration was taking place.

Now, there is no integration, and the white children have been driven out of the school system. Is this progress? God save us from more progress of this sort.

In my home county of Sunflower County, the Indianola Municipal Separate School District has this past week conducted registration of students prior to the second semester of school. The school district has been ordered to adopt a stringent "pairing" plan for integration which will destroy the public schools of that district. During the first semester of this school year there were over 720 black students and 991 white students attending the district schools. No white children registered to attend the schools of the district for the second semester, so there has been a total white withdrawal from the schools of the Indianola Municipal Separate School District. Every white teacher withdrew from this school system; and I see nothing in the law that when a teacher has a contract to teach in Indianola, any court can write a condition that she must teach in another school district.

The situation in the Tunica County schools has gotten so bad this semester that all but two of the white students have withdrawn. I have been informed by telephone over the weekend that those two have now withdrawn, which makes a totally segregated school. Also, all the teachers have withdrawn from the school. Prior to the entry of the stringent integration orders, the public school system of that county had 3,039 black students and 441 white students. This is a kind of integration that has been so notably accomplished in the public schools in the District of Columbia.

A similar withdrawal of white students has occurred in the Canton Municipal Separate School District. Prior to the entry of the extreme integration court order there were approximately 5,000 black students and 1,300 white youngsters in the public schools of that district. Now there are only about 100 of the 1,300 white students left in the system. The other white children have all withdrawn. Of that 100, very few will be left when the private school now under construction in that town is finished. What we see is the total destruction of public education, and what is left will be a strictly segregated basis, as a result of these court decisions.

In the Amite County schools there were 2,582 Negro students and 1,461 white students in the schools prior to the entry of the radical edict of the Federal courts. All but approximately 200 of the white students have withdrawn from the public schools and are now attending private schools. Another private school is under construction, and then most of those 200 white students who are now in the public schools will withdraw.

I know that in the northern end of Sunflower County, two private schools have been organized, and as a result there will be total segregation, because all of the white children will go to the private schools, which are open to any white child, and hence the destruction of public education in that area.

In the Kemper County school system, there were 2,030 black students and 794 white students enrolled in the fall of 1969. At the present time there are 1,812 colored students and only 60 white students attending the public schools of that county. It is significant that not only have almost all of the white children withdrawn from the public school system, but Negro enrollment has dropped by over 200. This is true all over the State of Mississippi, as well as other Southern States, which should clearly demonstrate that black parents and children are also opposed to this disruption of the public school system.

The Anguilla-Line Consolidated School District has been devastated by the harsh integration edict of the Federal courts. During the fall of 1969 there were 625 colored students and 198 white students enrolled in the schools of that district. Today there are no white students attending the public schools there; and practically all the white faculty have withdrawn.

This is another case where there has been a total abandonment of the public school system by the white children.

Unfortunately, the same thing is true in the Hollandale Consolidated School District. In my speech of December 16 dealing with this subject, I mentioned the chaos that had been visited upon this school district by the integration orders of the Federal courts.

Now, however, the situation is even worse than when I first spoke on the subject. There are presently no white children attending the public schools in Hollandale.

Mr. President, if those in the Federal judiciary, those in the executive branch of the Government, and those of my colleagues and Members of the House of Representatives who helped and worked to bring about these scandalous conditions are not ashamed of their handiwork, then I say, with all sincerity, that they are incapable of shame or embarrassment.

If I felt the slightest responsibility to the children of any State for having brought about such horrible conditions, I would ask for forgiveness.

In addition to the specifics I have cited, very recent accurate figures reflect, with clarity, the disastrous consequences of Federal attitudes and actions on the entire public school system in my State.

The 1969 fall enrollment showed 572,673 students attending our schools. This number has declined—sharply—to 560,339—a truly tragic loss of 12,334 pupils. I would direct particular attention to the fact that 8,164 white boys and girls and 4,135 black children make up this sad statistic—an unavoidable indication of irreparable damage being sustained by both races.

Further, even these depressing figures do not cover the full extent of this grave and worsening situation. Average daily attendance—the final authority on the count of children in our public schools—tells us that 17,353 boys and girls are not benefiting from educational training so vital to the formation of their lives in this complex and competitive period of history.

Mr. President, these statistics are a shocking outline of what is occurring—now—in our public educational structure. They are, however, only the central and most important part of this tragedy.

We are losing competent and experienced teachers in these same proportions. These dedicated men and women—white and black—who were the very foundation of our school system are—like the children they guided so well—being driven from their life's work by unwise, unwarranted, and unworthy edicts and orders of HEW and the Federal courts. I personally know that many white teachers have terminated their employment with the public school systems and are refusing to teach under the chaotic conditions brought about by these court orders. I know that in some instances the pullout of these teachers is a result of organized efforts, and I feel that this may spread.

These schoolteachers remember with horror what happened in the decentralization controversy in the New York City public schools in 1968. At that time, the black parents demanded that all of the white teachers be fired and replaced by black teachers. The white teachers were subjected to harassment and violence and had to be escorted to school by heavily armed police.

Naturally, the white schoolteachers of the South do not want to teach under such circumstances, and I do not blame them.

It is manifestly unfair for a Federal court to compel the schoolteacher to teach at a certain school when that teacher has signed a contract to teach at another specified school. This is not required in the North. Yet, that is exactly what is happening under Federal court coercion.

When the unfortunate Brown decision was rendered by the Supreme Court in 1954, I stated that it would be impossible to enforce that decision without depriving the American people of most of the civil rights they possess. This situation clearly shows that the very basic right of freedom of contract is being denied in the name of integration.

We face yet another result of this disruptive and destructive course. Across Mississippi looms the prospect of overcrowded school plants along with usable facilities which stand empty and abandoned. Too many children jammed into classrooms on the one hand—no children in good school buildings on the other.

Where will this folly lead us? When will we turn away—at last—from a policy which destroys, to one which affords the blessing of learning to every child in my State, in the South, and across America in school systems staffed by satisfied teachers and selected by those who should choose—the parents of the affected children?

Mr. President, these are terrible facts; they are shocking facts, and we should certainly do something to prevent the total ruin of our public school system.

I am incensed and insulted at the attitude taken by certain liberal editorial writers and others who condemn the white parents and students for not accepting conditions which are completely unacceptable to more than 98 percent of the white parents and students in the United States. The truth and the fact is that almost no white parent wants his child to attend a school where Negro students are in the vast majority. In cities such as Washington, D.C., such parents flee to the "safe" suburbs of Maryland and Virginia. I do not condemn them for this; in my judgment, they have every right to act in the best interests of their children.

We in Mississippi and the South simply ask the same rights and privileges that parents and students in other sections of the Nation enjoy.

However, the liberal journalists, and others previously referred to, condemned the parents of Mississippi for "frustrating" or "defying" or "evading" the integration orders of the Federal courts.

Let us get one thing straight about this matter. The only thing that the Federal courts have done is to order the public school systems to operate under a certain integration plan. The Federal courts have never held that a parent must send his child to a public school to achieve actual integration. The day that the Federal courts so hold will be the day of the death of the American Republic, for in its place and stead will have been substituted a totalitarian dictatorship by judicial decree.

For, the courts have almost destroyed the freedom of choice of parents and children to determine which public schools they will attend, by my colleagues, there is another even more precious freedom of choice which until now they have not destroyed. And that is the freedom to choose whether one will attend the public schools at all, or whether he will attend a private or religious school.

However, I think it tells us a great deal about the warped mentality and the sick minds of these modern Thaddeus Stevenses, that they not only demand that the public schools of the South be rearranged and reshuffled so as to conform to their own weird notions of education and sociology, but they actually demand the exquisite pleasure of witnessing the spectacle of little white boys and girls actually attending classes wherein they are outnumbered three, four, and five to one by members of the other race.

I do not know where or when this monstrous madness will be stopped, but we must begin to stop it now.

I can assure you, my friends and colleagues from all other sections of this Nation, that when the radical extremists have done with us, then it will be your turn. Some of you are already finding out what it is all about, and I am sorry to say that you will find out more in the future.

I have recently received a heartrending letter from one of my constituents which eloquently states the agonizing situation faced by the students and parents in many sections of Mississippi. This lady is from a county where the public schools are being ruined by the forced integration orders of the Federal courts. The ratio of black to white students in the school system attended by her son was approximately 3 to 1, but the ratio is much higher now since the withdrawal of most of the white students. Her letter speaks with the simple eloquence of a mind uncluttered by sophisticated ideology. Some of my colleagues who applaud the extremist actions of the Federal courts in these school matters may label this lady a "racist," a "bigot," or one of the other hate words favored by them, but I only ask that you listen to

these words contained in her letter to me:

You may not even read this or see this but this durn school business. Want heart the rich people only the poor people because hear in Town X we been going to public school with Negro coming in too that OK, but what those Judges are trying to do is Knock the Middle Class & poor people out of an edication becaus I am a Working class my self and I have a son in school Who Has All Ways been on the honer Roll With and And Above the rich. I say all of this is to try to Keep the Working Class down. I know We counted poor. My husbon & I drawe Sosal Security $139.50 a Month My Son in School will be 15 the 22 of Dec. 69—get S.S. chick for $53.30 a months. Some time his chick does not pay his Dr. bill & Drug but we get by My husbon works as a stocker 28 dollars a Week. We Live in a government House pay $61.00 a Month rent 7.50 to 8.20 Electric Bill $4.80 telephone Bill and the rest is grocerys and other necessary needs and Ive been a cancer pation. I paid so meny hospital Bills dount you see why I am so poore. All We can do is Set and let the NAACP take over our state if people dont Wake up soon We Will be in Ware again between Black & White. I am going to try to send my Son on to School regardless if he goes to a Negro School be cause With out a edacation he could not make it! he Was not Well when he was born but We cant send him to Privet School costes $700.00 to $1000.00 a year. We cant do that With ever thang so hi.

I hate to complain but why does these Judges take spite out on us the poor. it a crying Shame. All our life We Had to suffer and Just as things Was Kindly easy hear come all this. I am not blaming no one but the Judges and our prisedent. If he could say a flat *no* to raising Social Security and the $600 exemption he could say a big fat NO to the durn NAACP.

This lady concluded her letter to me with these words:

I pray there Will be a lite some Way are another.

Thank you for listning to my cry.

Mr. President, I believe it will be on the conscience of the Senate if we do not listen to the cries of this anguished parent.

I would also like to read another letter I received from a lady in south Mississippi:

I am a Mother with five children in school. I have gotten to the place I don't know what to do. only to keep them at home. Before this we had Negroes in our white schools. all that wanted to go with the whites were already there and now this. it will take $1000.00 for us to put our children in a private school. We have $217.00 to live on a month. so if there is something you can do. please do so. for we surely need help.

We must make a step in the right direction by restoring freedom of choice in our public school system, and I am happy to support the amendment of my colleagues which will accomplish this purpose.

Mr. President it is certainly unfair and unjust to make the school districts of the South bear the brunt of this integration madness while it is "business as usual" or "education as usual" in the school districts of the North, West, and East.

It has been brought home to me time and again, even recently, that there are those who have an extreme bias and prejudice against the South and southern people. Somehow, these persons can condone and justify discriminatory legislation that is aimed only at the South; they can justify opposition to the appointment of southerners to high and responsible positions in Government, but worst of all, they can justify and condone a double standard of justice for the South and the rest of the Nation in the courts of the United States.

I unqualifiedly condemn this bias and prejudice, and I respectfully suggest that some of those who glibly toss around accusations of bias and prejudice examine their own thoughts and feelings.

A double standard of justice in the Federal courts. Can anything be more calculated to undermine the faith of the people in our Government? I think not.

We cannot continue to permit, sanction, and condone the actions of the Federal courts in unjustifiably treating the public schools of the South differently from the public schools of the other parts of the Nation.

The Federal courts have held that zoning is permissible in the North, East, and West, but that southern schools must bus children to overcome racial imbalance. This is wrong, and it is discrimination in its worst form. We should no longer countenance such regional and sectional discrimination on the part of the courts.

The courts justify this discriminatory treatment on the basis that racial separation in the northern, eastern, and western schools is a result of residential patterns. They label this "de facto" segregation. On the other hand, they claim that the racial separation in the southern public schools is a result of State legislation requiring it. They label this "de jure" segregation.

We all know that this is a distinction without a difference. We know that the so-called fortuitous housing patterns of the North, East, and West, are the results of long-established customs, habits, and traditions sanctioned or permitted by State and local governments. Indeed, until a few years ago this discrimination was required by agencies of the Federal Government such as the Federal Housing Authority and the Veterans' Administration.

These housing patterns did not just happen. They exist because the law sanctioned or permitted them to exist and grow.

We also know that most States in the North, East, and West had laws which required or permitted racial separation in the public schools. These laws were widespread in the 19th century, and in many of these States existed far into the 20th century.

This distinction between "de facto" and "de jure" segregation is meaningless. It should not be used to discriminate against the South.

In the unfortunate opinion of the Supreme Court of the United States in the case of Brown against Board of Education, which amended the Constitution of the United States and took away from the States and localities the right to operate the public school system, the Court discussed the impact on colored students of racial separation. The harmful impact on these children, which I believe the Court erroneously found, is the basis for the holding of the case. The Supreme Court stated this harmful impact in the following words:

To separate them from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone.

I have never been able to understand how a 10-year-old colored student in a public school in Harlem, Watts, or South Chicago is expected to look around and see nothing but black faces in his classroom and say to himself: "This kind of racial separation does not hurt me because the State of Illinois, New York, or California does not have a law requiring me to attend all-black schools. I should not feel hurt by this racial separation because it is the result of housing patterns that just accidentally developed."

Mr. President, I say this was the basis for the Brown decision and this feeling of inferiority applies all over this country.

Perhaps the Federal courts and some of my colleagues will attribute this much wisdom, knowledge, and sophistication to a 10-year-old child, but I cannot.

Mr. President we should also consider the terrible impact on the communities that are being affected by these court orders. I have just been reliably informed that in one of the cities of the delta section of Mississippi that hundreds of people are moving from town because of the chaotic school situation. I am told that the moving vans are so tied up for over a month by people moving from town that it is impossible at the present time to obtain the services of a mover in the area of that city. This is being done because people are moving to where they can get their children in satisfactory and harmonious school systems.

And now, Mr. President, nearing the end of this presentation and facing the end of public education in Mississippi, I want to focus the attention of all on the real issue involved and the real people who are bearing the intolerable and unjust burdens imposed by ruthless rules and destructive decrees.

The issue is so simple and plain that I fear its very simplicity causes it to be overlooked or shunted aside by some Members of Congress. In Washington, our usual task is to deal with involved and complicated matters—many sided and difficult to define with precision—rather than handling a situation which is clear cut and crystal clear.

I shall state the issue: Does the Constitution or the law or the spirit or the tradition of the United States of America allow the courts or the Congress or the departments of the Federal Government to apply any standards on a regional basis?

Can laws be written for some States or should the law reach equitably from sea to sea?

Can judicial decrees be directed against a portion of our population in one section—or should judges seek to serve all of our people the same way in every section?

Can bureaucrats say to parents and children in one region "We will penalize you because you live here but we want you to know that these rigid rules and stringent demands will not be forced upon your fellow citizens elsewhere in this land"?

Mr. President, although it is unthinkable that these things could occur in America, they are occurring at this minute. We have today one standard for the southern section of our Nation and other standards for States outside the South.

Could we—would we—preserve for the ages a pronouncement which read: "With malice toward some—with charity for all—except those who live in the South"?

This vicious, vindictive, illegal, and unconceivable course of conduct must be halted and reversed. It must outrage every fairminded man and woman in every corner of our country. It violates the honor of America—it mocks the men who raised up this Nation and all who guided and guarded her through her long history.

Laws and decrees and guidelines and regulations can be made and enforced in the United States but they must be applicable—equally—from Maine to Hawaii—from Alaska to Florida. They must apply to every man, woman, and child in every State in this Union. We are forbidden to act otherwise at the penalty of losing America and all she means to the world.

Mr. President, the facet of this critical problem that tears the heartstrings is the fact that here we are dealing—not with programs—but with people.

The vague and malformed theories produced by fallible humans inside marbled Federal court buildings and in the mazes of the Department of Health, Education, and Welfare are playing havoc, not with sociology but with the lives of little children.

Consider the plight of the parents caught in this cruel trap created by men isolated and insulated from the harsh realities of this problem. Let me assure you that mothers and fathers from my State are identical with parents across America. They hold the same aspirations, hopes, and dreams for their youngsters as do their countrymen in each of our States. What American parent—anywhere—would want to share the bitter prospect my people face—that of watching their boys and girls deprived by decree of the education their parents have earned for them and which every child deserves and must have to form a life for himself in the final third of this century?

Most Members of Congress are fathers and mothers. I trust that they will look at their own children before passing judgment on the children of the South.

Who—in these Halls—would wish to be forced to send a child, not to school, but into real physical danger; not to a first-rate facility where the child can prepare to assume a position in our society, but into an environment which guarantees inferior education which will penalize the child through all his days?

Let us consider, with the seriousness which this matter merits, the conditions which prevail in some of our Nation's schools at this hour.

Here in the Capital City of our country, uniformed and armed police officers patrol the corridors of schools. Imagine policemen obliged to preserve the peace and to protect lives and property, not on the streets of a city ravaged by crime and lawlessness, but in the supposedly safe and sheltered hallways of institutions of learning.

Who believes—who can bring himself to believe—that guns and knives and narcotics belong with books and blackboards? Who would state, here or anywhere, that assault and extortion and violence are permissible in the educational process?

Tranquillity, not terror, is the atmosphere for learning. Order, not chaos, is the foundation of education at all levels.

We must move to reestablish the traditional and proper relationship which has existed through the years among the schools, the parents, and the pupils. Mothers and fathers must be allowed to perform one of the most vital of parental functions—the selection of the best school for the child.

What judge or bureaucrat, regardless of his station, has the right or the wisdom to direct the lives of countless children who he has never seen and does not know?

Mothers and fathers are charged with the responsibility for their boys and girls at the hand of God, and I submit that no court and no department can usurp that charge.

Mr. President, we are face to face with the clear and present danger of the denial of proper education to an entire generation. Consider the terrible consequences of such a denial to the several States presently involved and, indeed, to America—because, Mr. President, let no one naively believes that once this injustice is imposed on my section, the advocates of "instant chaos" will not seek to send this mistake of the 20th century into every school district in this country.

The adoption of the legislation offered by my distinguished colleague will draw us back from the brink of catastrophe and redirect us toward the protection and promotion of public education.

In the name of the ancient virtues that are the cornerstones of this country—fairness and justice and equity and compassion—and for the parents of my part of this land, and, most important of all, for the children who are the promise of tomorrow for America and all the world, I urge the adoption of this amendment.

Mr. ALLEN. Mr. President, I commend the able and distinguished Senator from Mississippi (Mr. EASTLAND) on his logical and eloquent presentation of the unfairness and the injustice of a Federal school policy which permits segregation in the North and which, by punitive measures, requires instant desegregation in the South.

I was very much impressed with his argument that after this policy has been fully implemented in the South—if allowed to be implemented—the same policy will be implemented and put into effect in areas outside of the South. I hope that distinguished Senators who represent States outside of the South will heed this warning of the able and distinguished Senator from Mississippi who also has the honor of being the chairman of the Committee on the Judiciary in the Senate.

Mr. President, I listened very attentively to the state of the Union address of the President, and I listened attentively to the answer to that address by the National Democratic Party in giving its version of the state of the Union. And there was a notable vacuum, a notable omission, in the presentation by the President and by the National Democratic Party. Nothing was said about the issue of the taking over of the public school system in the South by the Federal Government. That is the No. 1 issue in Alabama and the South—opposition to the taking over of our public school system by the Federal bureaucracy, by the Federal Government.

Two notable meetings were held in Alabama yesterday. One meeting was in the great port city of Mobile, attended by Governors of four great Southern States—Gov. Albert Brewer of my own State of Alabama, Gov. John McKeithen of the great State of Louisiana, Gov. John Bell Williams of the great State of Mississippi, and Gov. Lester Maddox of the great State of Georgia.

That meeting pointed up the importance to the people of the South of the preservation of the public school system in the South, and the fact that it is the No. 1 issue in the South.

The second meeting of great interest in Alabama—and I feel throughout the Nation—was a meeting of concerned parents who met in our largest city, the city of Birmingham, in the municipal auditorium there. A great crowd of concerned parents attended that meeting. The crowd, I noticed, was estimated by the Washington Post at some 11,000. It was estimated by those holding the meeting at a much higher figure. These 11,000 concerned parents, meeting on a Sunday afternoon in the city of Birmingham, certainly demonstrates the fact that our public schools, the education of the boys and girls of Alabama, is near and dear to the hearts of our people.

The meeting of Governors in Mobile ended with a declaration of principles, a statement of beliefs, a statement of position by those four distinguished Governors, who, in my judgment, in the positions they have adopted, are representing the thinking of the people of the South.

I ask unanimous consent that an excerpt from the news account of the Washington Post of February 9, 1970, be inserted in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ALLEN. I read in part from this statement of principle of these four Governors, speaking for the people of their respective States, just as I seek to speak for the people of Alabama and the people of the Nation, because this is not just a sectional problem; it is a national problem, and we are going to realize that more and more as time goes on:

1. We reaffirm our belief in the absolute necessity for quality public education, administered and controlled by local citizens.

2. We reaffirm our belief that the problems of our schools should be solved through orderly, democratic processes and not through violence.

I might say parenthetically that there has been no violence in the South; that the people of the South are law-abiding people. We observe the law of the land. But we cannot accept as final a Federal policy for schools that permits segregation in one part of the country and demands instant desegregation in our part of the country. We cannot accept that principle as being an American principle, as being the principle or the position that this country will eventually adopt.

Continuing with the statement of the Governors:

We reaffirm our determination that no child in any State or in any school system shall be mandatorily assigned or bused for the sole purpose of achieving racial balance in our public schools. We believe that the same standards for the operation of schools applied in other States should be applied in the Southern States. We resent the fact that we have been singled out in our respective States for punitive treatment.

That statement could very well be made right here on the floor of the Senate, and has been made, and will be made again and again.

We support the commitment given by President Nixon in the presidential campaign of 1968 to the principle of freedom of choice and maintenance of neighborhood schools.

That is the statement of principle issued by the four Governors meeting in Mobile on yesterday.

As the junior Senator from Alabama, speaking for the people of Alabama, I might say that we endorse that statement of principles as being fair, as being right, as being expressed also in the amendment now under consideration. For that reason I voice my support of the Stennis amendment, in which I have the honor of joining as one of a number of cosponsors.

I might say that both of the major parties have, as a party, completely overlooked and disregarded the needs and the hopes and the wishes and the aspirations of the people of Alabama and of the South in the matter of our schools and of allowing us to provide quality education for all the boys and girls in our State. We resent that very deeply.

We need help in Alabama and in the South at this point. I would hope that one of those parties, the Republican Party or the National Democratic Party, would come to our aid. I feel that it would well serve the party that comes to the aid of the people of Alabama and the people of the South in this time of travail and stress and assist us in this dark hour, because the public school system of Alabama and the South is now being torn asunder. Our public school system cannot exist under the present decrees of the Supreme Court requiring desegregation now.

I might say that the members of the Supreme Court, sitting in their ivory tower and having little knowledge of conditions and affairs in general, and of the school systems in particular, have so confused the law with regard to the public school system in our country that I hazard the opinion that even they do not know what the law is. Certainly the courts of appeal and the district courts, without proper guidance by the Supreme Court, do not. How could they know what the law is? And how could the average school board member, the average citizen, the average school patron, be expected to know what the law is, with the Supreme Court leaving the law in such a great state of confusion?

I outline now what I suggest is a synopsis of the journey of the Federal Government on the question of desegregating our schools, to show the uncharted course that the Supreme Court and the Federal Government have pursued in this wilderness, without any knowledge of the area, without any map, and without any compass, and what they have come up with in the last 15 years.

In Brown I, the Supreme Court outlawed segregated schools. Well and good. I was interested, a moment ago, in hearing the distinguished Senator from Mississippi (Mr. EASTLAND) speak of the Brown decision and the reasoning of the Court at that time. In that lengthy opinion, the Supreme Court cited not one single legal precedent to back its decision. Not one single legal precedent. They were out on an uncharted sea. They had no guidance, and they gave no guidance.

In Brown II, the Court established what it called procedures for desegregation, putting the policing of the matter in the hands of the Federal district courts, and calling on the local school boards to desegregate.

Then the district courts ruled, in cases on remand from the Supreme Court, that the Constitution did not require integration, but only prohibited segregation. They recognized, then, the validity of freedom of choice.

That is all we are asking for: what the Supreme Court originally decided, and the implementation by the Federal district courts of that decision—which was regarded as being the law as declared by the Supreme Court.

Our people are willing to accept freedom of choice. That is the only solution of this problem. If we could have freedom of choice—I mean real, bona fide freedom of choice—we would have no further trouble with our school situation in Alabama and in the South. I repeat, that is all we are asking for. We are asking for the same freedom of choice that is permitted in the North, the East, and the West, but is denied to people in the South.

We returned to the Union some 100 years ago, and we are pleased with that status. But we would like to be treated as States of the Union, and not as portions of conquered territory. We would like to have the same equal protection of the law as is given to people in other sections of our country. We are asking only that we be treated just as people are treated in other sections of the country.

Going on with this wild and erratic course of the Supreme Court and the Federal bureaucracy in the matter of desegregation: State legislatures then responded by enacting pupil placement laws based on freedom of choice. The district courts then started the long process of developing, on a case-by-case basis, the meaning of "desegregation," which had never been defined by the Supreme Court.

Then the inadequacy of powers in local boards of education, and the inappropriateness of equity powers in the courts, created a demand for Congress to define the term "desegregation," and provide for implementation.

That is what Congress sought to do in the 1964 Civil Rights Act, because Congress enacted the 1964 Civil Rights Act defining the term "desegregation," and shifted responsibility to the Executive.

The Executive then tried withholding funds and massive school closings, busing, and other plans to achieve racial balance, and eventually shifted responsibility back to the courts, in hundreds of lawsuits.

Then the Federal judiciary, realizing that it did not have the ability, the training, the background, or the knowledge to take on this assignment that it had given itself, responded by pleading lack of "expertise," and shifted the responsibility back to the executive by requiring that plans be submitted to the courts by the Department of Health, Education, and Welfare.

Therein has come about much of the wrong, the error, the injustice at the hands of HEW bureaucrats, who have set up these busing requirements which the Supreme Court then has approved as being recommended by the Department of Health, Education, and Welfare.

The Executive responded by asking Congress, in the last session, to shift responsibility back to the courts, by providing that the Executive would not close schools or bus pupils "except as required by the Constitution," which could only mean as construed by the courts. That was the amendment of the distinguished Senator from Pennsylvania, speaking for the executive department and for the President himself, whereby language was inserted to the language of the Whitten amendment that completely emasculated the Whitten amendment, and left our schoolchildren subject to the whim and the caprice of HEW bureaucrats.

Now the Executive has created a Commission to do whatever it has to do, in the least disruptive manner. I refer to the Agnew Commission. I hope that that Commission will soon be activated so that it can assist what has been stated to be the purpose of the Commission in preserving our ability, in the South, to continue to give a quality education to our children in the face of these disruptive efforts by the Federal Government.

So we are unwilling to accept as final this Federal school policy, which does have a rule applied in the North, East, and West permitting segregation, and requiring desegregation "now" in the South. It has thrown our school systems into complete chaos. It is making it so that our school districts cannot provide a quality education for any child, black or white.

I might say that this is not a matter about which the whites alone feel this

way. The black citizens of our State have the same opinion, because the black schools are being closed.

I have received a letter from our State superintendent of education. I do not have it with me, or I would insert it in the RECORD. The letter states that the HEW and the Federal courts have, by their edicts, caused school districts within the State of Alabama to close school buildings valued at more than $100 million to implement these HEW edicts.

We are willing to abide by freedom of choice.

The amendment under discussion adds to the Elementary and Secondary Education Act the provisions of the New York law which do forbid busing, forbid the transfer of students from one school district to another to achieve racial balance. Actually, we have language in the statutes already that is just about as strong as that. But this is a direct statement that puts these provisions into the Elementary and Secondary Education Act, and it would put the South on the very same basis as other sections of the country. It would allow the parent of any child complete freedom of choice, to have his child go to any school of his choice. How could anything be fairer than that? How could that be other than giving equal protection of the laws to every citizen, every schoolchild, in the State? We think it is fair. We think that if other sections of the country have this privilege, if the law is applied in that way in other sections, it should also be applied that way throughout the South.

I have some interesting figures here that pose a question in my mind. I assume it will only be a rhetorical question, because I doubt that there will be an answer to it. According to the figures of HEW, 91.7 percent of the Negroes in Alabama attend schools that are a majority black. These same figures show that in the city of Los Angeles, 95.3 percent Negroes attend majority black schools. In Newark, N.J., 97.9 percent of Negroes attend schools that are majority black. In Gary, Ind., 96.6 percent of the Negroes attend majority black schools. In other words, there is a higher percentage of segregation in Los Angeles; Newark, N.J.; and Gary, Ind., than in the State of Alabama.

I should like an explanation as to why it is the policy of the Federal Government to push for desegregation on a crash basis in Alabama but to completely ignore the situation in Los Angeles; Newark, N.J., and Gary, Ind., in which the situation is worse than in Alabama.

I should like to read from an editorial of WCBS–TV of December 13, 1969. I understand that this is the CBS outlet in the city of New York. I might state that I do not disagree a great deal with much that is said in the editorial. I ask unanimous consent that the editorial be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. ALLEN. I will read only one or two sentences from the editorial.

In a recent report to the legislature, the Regents—

The New York State Board of Regents—

noted that between 1967 and 1968, the number of pupils attending mostly black schools in New York rose dramatically.

Here we are with a crash program to end segregation in the South. We are busing thousands of students hundreds of miles to achieve racial balance. We are closing schools to put children from one school into schools that are already overcrowded. That is what we are doing in the South and what is being done to us. But in New York, between 1967 and 1968, the number of pupils attending mostly black schools rose dramatically. Not only are they not ending segregation in New York; they are becoming more segregated; whereas, in the South, we are willing and we are offering to throw the doors of our school buildings open to any children to come in and go to school and have the opportunity of getting a quality education.

We want to see our educators return to educating our children, not just busing our children all over the place. That is what we are asking for in Alabama and the South.

Also, Mr. President, I have an excellent editorial which was published in the Montgomery Advertiser of January 31, 1970. I ask unanimous consent to have the editorial printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. ALLEN. I should like to read briefly from the editorial. It is entitled "Senator STENNIS' Challenge."

I might say that the people of Alabama—and certainly the junior Senator from Alabama joins in that feeling—have enormous respect for the great Senator from Mississippi. I have not told this to the Senator from Mississippi, but I attended the meeting at Birmingham yesterday where many thousands met for the purpose of protesting this Federal policy, this dual system, in the administration of our schools, and I read a telegram to the assemblage there from many Senators who were expressing their approval of the principle of freedom of choice. When I came to the name of the distinguished Senator from Mississippi (Mr. STENNIS), the applause was deafening and came very close to taking the roof off the auditorium. Thus, we have great respect for him, and the editorial in the Montgomery Advertiser bespeaks that respect:

Senator Stennis has not demagogued the race issue, although since last November he has been inserting into the CONGRESSIONAL RECORD HEW figures on school segregation in the East, North and West, including elaborate data from Ohio, Indiana, Washington, D.C., New Jersey, Pennsylvania, Illinois, New York and California.

Tuesday, Stennis rose in the Senate to offer two amendments to the Elementary & Secondary Education Act of 1966 and the Civil Rights Act of 1964. In brief, these prevent compulsory integration or compulsory segregation, forbid zoning or transfers for either purpose, unless requested by parent or guardian, and require that federal desegregation guidelines be applied "uniformly to all regions of the United States."

Stennis suggested that New York State's freedom of choice plan be adopted nationwide.

The amendments would prevent racial discrimination against *both* whites and Negroes, and would outlaw race, color, creed, or national origin as a valid consideration in *either* direction. The amendments would also reinstate school boards to some of their former authority, but not allow them to practice direct or reverse discrimination against either race.

"No person shall be *refused admission into or be excluded from* any public school in any state on account of race, creed, color or national origin," sums up the amendments.

And then the editorial goes on in highly complimentary fashion and certainly in advocacy of the Stennis amendment.

Mr. President, let me suggest that a second reconstruction of the South is being cruelly and heedlessly imposed by the Federal Government in its forced "desegregate now" public schools mandates.

HEW and Department of Justice bureaucrats and the Supreme Court and other Federal courts are modern-day carpetbaggers devising and pushing second reconstruction policies.

The Federal bayonet has given way to HEW and Supreme Court edicts, but the vindictive assault upon our people, black, and white, continue.

Our people, white, and black, are tired of being treated as second-class citizens. We want the same treatment for our schoolchildren that other States are allowed to give their schoolchildren—freedom of choice—not busing like cattle.

Treat the South as a part of the Union with the protection of the same Constitution—the same amendments—the same equal protection of our laws.

Let us end this second reconstruction of the South, and let us end it now.

Mr. President, I yield the floor.

EXHIBIT 1

[From the Washington Post, Feb. 9, 1970]

After the preamble, it read:

"1. We reaffirm our belief in the absolute necessity for quality public education, administered and controlled by local citizens.

"2. We reaffirm our belief that the problems of our schools should be solved through orderly, democratic processes and not through violence.

"3. We reaffirm our determination that no child in any state or any school system shall be mandatorily assigned or bused for the sole purpose of achieving racial balance in our public schools. We believe that the same standards for the operation of schools applied in other states should be applied in the Southern states. We resent the fact that we have been singled out in our respective states for punitive treatment.

"4. We plan to meet with our respective delegations in Congress and other interested members of Congress in Washington at the earliest practicable date so that we may advise them of the gravity of our public school situation and seek a unified course of action to obtain relief from the chaotic conditions now facing our schools.

"5. We support the commitment given by President Nixon in the presidental campaign of 1968 to the principle of freedom of choice and maintenance of neighborhood schools.

"6. We use this means to bring forcefully to the attention of our people and to the people of the United States the fact that we believe our public schools will be destroyed under present federal decisions and admin-

istrative actions. We are determined to save our public schools from that fate. We are together. We shall pursue our purpose forcefully."

EXHIBIT 2

[A WCBS–TV Editorial, broadcast Dec. 13, 1969]

YEAR END: RACE

(By Michael Keating)

This is another in our editorial series assessing the decade of the '60s, and looking ahead to the '70s. Race relations is tonight's subject.

In a rather remarkable exchange in Washington recently, New York State's Senator Jacob Javits defended his state against charges of segregating its schools, charges brought by Senator John Stennis of Mississippi—of all people.

Well, there was method in the seeming madness of the Mississippi Democrat. Senator Stennis has not joined the NAACP, he simply has adopted a new tactic for maintaining racial segregation in the South. By pointing up the number of racially segregated schools in the North, he hopes to point up the hypocrisy of nothern states on this issue, and to block federal efforts to desegregate Southern schools.

Senator Stennis has a valid point, and the New York State Board of Regents bears him out. In a recent report to the Legislature, the Regents noted that between 1967 and 1968, the number of pupils attending mostly black schools in New York rose dramatically. Yet with this trend toward segregation, the New York State Legislature enacted a law last spring that would prevent the State Education Commissioner from reassigning students to eliminate racial segregation.

The Regents have asked the State Legislature to repeal this legislation, and in so doing they have asked us all a bigger question. Is New York substantially different than Mississippi when it comes to integrating schools. And the answer, it appears to us, is no, not much.

For despite the Kerner Commission's dire warnings about the Nation splitting into two racially segregated societies, despite all the desegregation rulings by the federal courts, racially segregated schools remain a fact of life, a political reality north and south.

And, significantly, many black leaders have begun to abandon the battle for school integration, and instead have chosen to advocate community control: black schools, staffed by black teachers governed by black parents.

And so, it seems to WCBS–TV, that a major development of the 1960s is the death of the dream of rapid school integration. This is not to say that the dream of racial integration is dead, too. On the contrary, the '60s have seen tremendous gains toward that goal in business, politics, and higher education. And, it appears, much more progress will be made by civil rights groups as they focus their attention on jobs, suburban housing, and quality education in the next decade.

School integration, we believe, can and must come, but it appears from our experience in the '60s that the most promising way of integrating schools is to integrate society through better opportunities for housing, jobs and quality education.

EXHIBIT 3

[From the Montgomery (Ala.) Advertiser, Feb. 2, 1970]

SENATOR STENNIS' CHALLENGE

John Stennis of Mississippi is one of the most respected and knowledgeable men in the United States Senate. This accolade comes from all sections of the country.

Senator Stennis has not demagogued the race issue, although since last November he has been inserting into the *Congressional Record* HEW figures on school segregation in the East, North and West, including elaborate data from Ohio, Indiana, Washington, D.C., New Jersey, Pennsylvania, Illinois, New York and California.

Tuesday, Stennis rose in the Senate to offer two amendments to the Elementary & Secondary Education Act of 1966 and the Civil Rights Act of 1964. In brief, these prevent compulsory integration or compulsory segregation, forbid zoning or transfers for either purpose, unless requested by parent or guardian, and require that federal desegregation guidelines be applied "uniformly to all regions of the United States."

Stennis suggested that New York State's freedom of choice plan be adopted nationwide.

The amendments would prevent racial discrimination against *both* whites and Negroes, and would outlaw race, color, creed or national origin as a valid consideration in *either* direction. The amendments would also reinstate school boards to some of their former authority, but not allow them to practice direct or reverse discrimination against either race.

"No person shall be *refused admission into or be excluded from* any public school in any state on account of race, creed, color or national origin," sums up the amendments.

In introducing the amendments, Senator Stennis delivered a speech which is remarkable for its clarity and unanswerable logic, as well as for its purity from any demagogic blather. Most of it follows. The rest, with texts of the amendments and exhibits, may be found in the *Congressional Record* for Jan. 27.

Mr. Stennis. Mr. President, I submit two amendments to the Elementary and Secondary Education Act.

My present intention is at the appropriate time to propose first the amendment that would apply nationwide the New York freedom of choice plan for public school students that is now the law in that state.

Also, at the appropriate time, I plan to propose the amendment that would establish and make clear that it is the national policy to have uniform enforcement of desegregation of schools in all regions of the United States.

Let me make it clear that my primary purpose is to preserve the neighborhood school and, so far as possible, rescue all schools in every section of the nation from this killing squeeze put on by those who have made education clearly secondary to integration in the public schools.

I emphasize also that this is not an attempt to repeal the Civil Rights Act. It is simply a good faith attempt to save the schools of every section of the nation, including the South where they are now literally being emasculated in many areas as educational centers for educating the children.

I wish to make it absolutely clear that I want every child, and I have always wanted every child, to have every opportunity to obtain adequate schooling and training under just as favorable conditions as can be had. I want faculties and others who are engaged in school work generally to have conditions as favorable and as encouraging as possible.

For several years, the Department of Health, Education, and Welfare and the Justice Department have conducted or attempted to conduct a campaign to bring about a total integration of the public schools in the South. Both the Department of Health, Education, and Welfare and the Department of Justice have launched a crash program to integrate the races in every school in the South.

This drive for an all-out integration has been so intense and so demanding that the education and welfare of the students and teachers have actually become secondary. The prime objective has been all-out integration.

Those who are directing this campaign have either failed to recognize, or have deliberately chosen to ignore, the fact that this localized effort against the South overlooks segregated conditions in the North that are as pronounced, and in some instances even more pronounced, than segregation in the South which is actually the sole target of this massive integration program.

The record is heavy with facts collected and verified by the Department of Health, Education, and Welfare that show the extent of segregation in the North.

Last year, I placed in the Record detailed figures showing the extent of segregation in several northern and western states. . .

These figures show, for instance, that in Ohio there are 197 predominantly Negro schools. There are 154 which are 90 to 100 per cent Negro. There are 131 95 to 100 per cent Negro, and 105 of them are 98 to 100 per cent Negro.

In Indianapolis, the capital of Indiana, there are 13,765 Negro students in 17 schools that are from 99.2 to 100 per cent black. In all these 17 schools there are only 37 students listed as white.

In Philadelphia, the largest city in Pennsylvania, there are 9 schools with a total enrollment of 7,206 that are 100 per cent Negro.

Also in Philadelphia there are 57 schools with an enrollment of 68,402 that are 99 to 99.9 per cent Negro.

In Los Angeles, there are 48 schools with a total enrollment of 65,877 that are 99 to 99.9 percent minority segregated.

These are but some examples. The facts show that in many sections of the North, in large and small school districts, segregation is as extensive, and in some cases, more so, than in the South. Segregated conditions are much worse in the North than in the South now after the Supreme Court decisions have been implemented and put into effect in the South.

The policy of singling out the South for enforcement of the 1954 Supreme Court decision prohibiting discrimination in the public schools on account of race is based upon the idea that enforcement should be directed against areas of the nation that once had state or local laws that required or allowed segregated schools.

This is known as de jure segregation. Segregation in public schools that has arisen out of a fact, or a combination of facts, not required or permitted by law is classed as de facto segregation.

By establishment of this policy—that is, a differentiation between de jure and de facto segregation—federal officials have sought to excuse their inaction against segregation in the North while pursuing an intense program to achieve total and immediate integration in the South.

The practical effect of this policy is to say that segregation in the South is wrong but segregation in the North is not wrong.

This procedure, this approach, is merely a policy. It is not supported by the Civil Rights Act of 1964 nor by the Supreme Court decisions.

However, even under this policy the states of the South should be considered on the same footing and treated the same as New York for the reason that as late as 1938 New York law provided for separate schools for Negroes.

The New York statute, laws of 1910, chapter 140, article XXXVI, section 921, reads as follows:

"Sec. 921. Provision for separate schools.—The Trustees of any union school district, or of any school district organized under a special act, may, when the inhabitants of any district shall so determine, by resolution, at any annual meeting, or at a special meeting called for that purpose, establish separate schools for the instruction of colored children residents therein, and such school shall

be supported in the same manner and receive the same care, and be furnished with the same facilities for instruction, as the white schools therein."

As I read this law it clearly provides for a dual school system. It is the separate but equal doctrine . . . Said section continued to be the law in that State until it was repealed in 1938.

Notwithstanding the fact that the schools of New York should be treated the same as the schools of other states where de jure segregation existed, the New York Legislature last year passed and Governor Rockefeller signed a state law which precludes the application of the civil rights law and other desegregation measures in that state as now being applied in states of the South.

By an overwhelming vote of more than 2 to 1 in the new State General Assembly, the New York Legislature prohibited the busing of students and also gave to the public school student's parent or guardian the freedom of choice as to the public school a child shall attend.

The inequity thus created is unacceptable under the principles of our form of government. While public school students in the South are now forced to ride a school bus many tens of miles, and in some cases for hours each day, against their will, and the will of their parents, to attend a school across the county from their homes, the State of New York has by law provided there will be no busing of students and there will be freedom of choice to attend a neighborhood school.

If freedom of choice is wrong, the State of New York should not be allowed to continue freedom of choice as an official policy. If freedom of choice is right as official policy in New York, all other states should have the same right to freedom of choice.

If public school students in New York should not be bused to overcome the vestiges of a dual school system, the public school students of the South should not be bused for that purpose either.

If the students of the South should be bused for that purpose, then the students of New York should also be bused.

For a picture of the extent of segregation in the public schools of New York State, I ask unanimous consent to have printed in the Record at the conclusion of my remarks a summary of HEW statistics for the school year ending June 1968 . . .

A sense of fairness should give wide support to the proposition that every state be treated alike.

I challenge those who advocate this dual standard and duplicitous policy to put this matter in national issue by adopting as part of their platform in the next election the proposition that all states, including their own, should be treated as the South is now being treated.

I predict that any candidate or political party who does so will be defeated overwhelmingly.

I further predict that not one party, nor one candidate, will make such a proposal as part of the platform on which they seek election, because every knowledgeable person in public office knows full well that defeat would be certain.

If this drastic policy is not to be pressed with equal diligence in all sections of the nation, fairness then dictates that the pressure be eased in these sections where it is being unwisely and unjustly applied before the public schools are destroyed and there is no chance for any student—black or white—to obtain a decent education.

I consider no matter now before the Senate, or likely to come before the Senate, more important or more serious than that of preserving public school education and the concept of the neighborhood school, and I will pursue this matter as vigorously and effectively as I can.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished senior Senator from New York (Mr. JAVITS) be recognized for not to exceed 11 minutes so that at 1:15 o'clock p.m. today I can put in a call for a quorum, which will be a live quorum.

The PRESIDING OFFICER (Mr. HUGHES in the chair). Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I felt that it was proper, before there were any votes upon this amendment, to say a word or two about it because I have great respect for the Senator from Mississippi. He made an amendment which, to him, is very serious in its nature. As a matter of fact, it bears upon the New York statute on this subject and, therefore, I thought it was only fitting that I should say a word about it and I asked the majority leader, who was very kind, to comply with my request, to allow me to speak for a few minutes to the substance of the amendment before he puts in a call for a live quorum, as I note that the Senator from Connecticut (Mr. RIBICOFF) will then get the floor, by unanimous consent, at 1:30 o'clock p.m. and, hence, I would be prevented from speaking, certainly until 2:30. Thus, I appreciate very much this consideration.

Mr. President, in colloquy with the distinguished Senator from South Carolina (Mr. HOLLINGS), I said that my State, like every other State, and like every human being, is fallible. I thought that the measure passed by the New York State Legislature was improvident and unwise, that the State of New York made a mistake, as does every other State now and then. Notwithstanding it is a New York statute, it is still wrong. It should not be legislated nationwide, any more than I would want some segregationist statute passed by a Southern State to be legislated nationally.

There is no magic to State-enacted laws, even New York State, which has such an extraordinary and fine record of nonsegregated laws and equal opportunity laws. New York was first in the Nation to have any measures on the subject, going back to Irving Ives, of sainted memory, a Senator here, who jointly sponsored, with another Senator from the State of New York, a bill known as the Ives-Quinn bill, to provide for nondiscrimination in employment opportunity—a real landmark at that time.

Whatever may have been the reason for the New York State Legislature passing, and the New York State Governor signing this measure into law, that is their problem.

But I, as a Senator from New York, do not have to agree with them, and I do not.

In the first place, I might say, just to get the concept of the limitation of the New York statute, that it applies only to four cities in the State which have nonelected boards of education, and that New York City, which is the largest of those four cities, is proceeding to an elected board of education, so that the New York statute will not apply there.

Certain things have been said here about the New York statute which need to be clarified.

There is a set Federal law, dating from 1954, with respect to the segregation of schools, and it resulted from the historic decision made by the U.S. Supreme Court to overturn the separate-but-equal doctrine which obtained in this country for a long time. It was upset on constitutional grounds because it failed to fit the equal protection aspect of the Constitution and because the Court felt that it was substantive to the depreciation of an education to minority children, mainly black children.

Now the concept of the law was incorporated in the 1964 act. I spoke about it, and many other Senators on my side of this question spoke about it. The concept of the law was that no State and no law could enforce the segregation of the races in the schools. So we sought to act against any action of a State or legal authority—constituted Government authority—which sought to enforce a segregated system.

Now we intentionally, in that very act of implementation, which did not come for 10 years after 1954, but finally came in 1964, excluded any effort to bring about racial balances in an affirmative way. The statute was negative in its application, but we had the right to prohibit and enjoin.

Mr. President, the whole argument on the Civil Rights Act of 1964 was based upon that concept. I was very active in that debate. I have been a very active protagonist of the law. And I am sure that I can be identified in a dozen statements or more upon that specific subject. So whatever may be the validity, pedologically or educationally, of struggling against racial imbalance, I think it should be struggled against.

It was not covered by the Civil Rights Act of 1964 or the Supreme Court decision of 1954. The governmental policy we had and the governmental policy we have is right—to enforce a policy with respect to segregated systems of education which are put into effect or in any way aided by Government.

We can prevent that. And in order to prevent it, we can insist on reorganizations and new plans which is in essence what has been done by the Department of Health, Education, and Welfare under the mandates of law.

In the 1964 Civil Rights Act we said that busing to correct racial imbalance or to use a statute to correct racial imbalance was not acceptable. We have said it time and time again, including in 1969. There is no question about that.

The reason why I say that the New York State law is wrong is that I believe it is desirable and intelligent for the State of New York that it should bus children where necessary, because we do in several schools districts bus thousands and thousands of children hundreds of miles, as the Senator from Alabama said, and I think the phrase is very appropriate. We think it is best for their education to get them out of the one-room schoolhouse in the country.

And we think it is desirable from the point of view of my State to require busing where it will contribute to the education of children. But that is a different problem from the one we are dealing with in the Federal Establishment.

We have no right to do that, unless we want Federal control of education, and I do not. It is fascinating that in the very provision of the bill we wrote to provide against the control of education, we prohibited busing to correct racial imbalance. We put that in there where it belongs.

This is strictly a State matter, I thoroughly agree. Therefore, even though the Senator from Mississippi (Mr. STENNIS) has done us the honor of transposing the New York statute into an amendment to the Federal law, I cannot agree with it. All it does is do the same thing we have been doing in many other directions. But in addition it provides, which has been discussed here, that nothing contained in this act or any other provision of Federal law shall prevent the assignment of a pupil in the manner requested or authorized by his parents or guardian.

That language is contained in the amendment of the Senator from Mississippi.

The Green case in the Supreme Court points out that pupil placement on a freedom of choice plan represents a technique by which an unconstitutional result can be obtained.

It seems to me that there is implicit in the pending amendment an approval by Congress of this way of dealing with the segregation question, where there is de jure segregation. And the law is directed against it and the law is prohibitory. It is negative. It is not positive in this respect.

I do not want to invalidate that law by a scheme which the Court itself has found to be capable of being used to accomplish an unconstitutional result. So I feel that we have dealt with it in the education bill. Desegregation is dealt with in the Civil Rights Act of 1964 very comprehensively.

It seems to me, therefore, that the pending amendment is an effort to deal in an education bill with a monumental question involving constitutional law in a way which, in my judgment, is invidious to the purpose of the bill. I think, therefore, it should properly be dealt with on that basis.

I hope that sometime later on, at an appropriate hour, we can test the question as to whether the particular amendment belongs in the pending bill.

Mr. TALMADGE. Mr. President, will the Senator yield?

Mr. JAVITS. I have only 11 minutes. My time is restricted.

Mr. MANSFIELD. Mr. President, I yield 2 additional minutes to the Senator.

The PRESIDING OFFICER. The Senator is recognized for an additional 2 minutes.

Mr. JAVITS. Mr. President, I shall finish my thought and then yield.

It seemed to me that the Senator from Mississippi (Mr. STENNIS) having argued that matter with vigor and fairness, which is his usual manner, I did not want to sit down without making my argument.

Mr. TALMADGE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. TALMADGE. Mr. President, is it the Senator's view that the Federal Court can assign pupils to a particular school in order to overcome racial imbalance?

Mr. JAVITS. No. I believe the Federal Court can make new plans to deal with and undo a de jure segregated system. In that respect, they may conceivably assign pupils by the use of judicial machinery where a plan is submitted. But the essential gravamen of the matter is that a segregated system is sought to be perpetuated in some plan which has been devised, but the court should deal with it and undo it.

In that respect, I think the courts have great latitude. However, when we turn it around the other way; that is, when an effort is made to say that a voluntary free choice is the answer to a segregated system. I say "No," and the courts have said "No."

Mr. TALMADGE. Mr. President, will the Senator from New York agree with me that a school open to students of all races, all colors, and all creeds is no longer a segregated school?

Mr. JAVITS. I would say that is the definition of an unsegregated system, but must meet the test set out by the Court in the Green case.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll and the following Senators answered to their names:

[No. 37 Leg.]

Aiken	Hansen	Pell
Anderson	Holland	Percy
Baker	Hollings	Randolph
Bible	Hughes	Ribicoff
Byrd, Va.	Jackson	Schweiker
Byrd, W. Va.	Javits	Spong
Cooper	Jordan, N.C.	Stennis
Cotton	Jordan, Idaho	Symington
Cranston	Mansfield	Talmadge
Dole	McClellan	Williams, N.J.
Dominick	McIntyre	Young, N. Dak.
Ellender	Mondale	Young, Ohio
Gore	Moss	
Gravel	Pearson	

Mr. KENNEDY. I announce that the Senator from Indiana (Mr. BAYH), the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. MAGNUSON), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Rhode Island (Mr. PASTORE) are necessarily absent.

I also announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senators from Nebraska (Mr. CURTIS and Mr. HRUSKA), the Senators from Arizona (Mr. FANNIN and Mr. GOLDWATER), the Senator from Hawaii (Mr. FONG), the Senator from Michigan (Mr. GRIFFIN), the Senator from Florida (Mr. GURNEY), the Senator from Iowa (Mr. MILLER), the Senator from California (Mr. MURPHY), the Senator from Illinois (Mr. SMITH), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT), and the Senator from Alaska (Mr. STEVENS) are absent because of illness.

The Senators from Delaware (Mr. BOGGS and Mr. WILLIAMS) are absent to attend the funeral of a friend.

The Senator from Ohio (Mr. SAXBE) is absent on official business.

The PRESIDING OFFICER. A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order in the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Allen	Harris	Nelson
Bennett	Hart	Packwood
Case	Hatfield	Prouty
Church	Kennedy	Proxmire
Cook	Long	Russell
Eagleton	Mathias	Scott
Eastland	McCarthy	Smith, Maine
Ervin	Metcalf	Sparkman
Fulbright	Montoya	Tydings
Goodell	Muskie	Yarborough

The PRESIDING OFFICER. A quorum is present.

The Chair recognizes the Senator from Connecticut (Mr. RIBICOFF) under the previous order.

Mr. RIBICOFF. Mr. President, my remarks today are prompted by two amendments introduced by the Senator from Mississippi (Mr. STENNIS). The Senator is currently debating amendment No. 481, which would, in effect, agree to bring to a halt Federal efforts to enforce school desegregation. Ironically, it is based on a 1969 New York State law that was passed to prevent busing of school children. I will vote against this amendment.

If this amendment fails, the Senator from Mississippi will bring up amendment No. 463, which would enforce school desegration uniformly throughout the Nation, eliminating any legal differences between de facto and de jure segregation.

The Senator from Mississippi introduced his amendment following a Department of Health, Education, and Welfare report last January showing widespread segregation in public schools in both the North and South.

In the South 70 percent of the black children attended schools that were 95 to 100 percent black. In the North the total was 50 percent. The HEW report also showed that a majority of the schools in the 10 largest population centers are black. In 18 cities, 60 percent or more of the blacks attend schools that are almost totally segregated.

There are those who argue the difference between de jure and de facto segregation. The Senator from Mississippi has argued that if segregation is wrong in the public schools of the South, it is wrong in the public schools of all other States. On this statement the Senator from Mississippi is correct. Therefore, I will support the Senator from Mississippi (Mr. STENNIS) in his second amendment, designed to apply the guidelines for desegregation uniformly across the whole Nation.

Mr. President, the North is guilty of monumental hypocrisy in its treatment of the black man. Without question, northern communities have been as systematic and as consistent as southern communities in denying the black man and his children the opportunities that exist for white people.

The plain fact is that racism is rampant throughout the country. It knows no geographical boundary and has known none since the great migration of rural blacks after World War II.

The institutional roots of racism—which depersonalize our prejudices and make it easier for us to defend them—are as deeply embedded in the large metropolitan communities of the North as they are in the small rural communities of the South.

Perhaps we in the North needed the mirror held up to us by the Senator from Mississippi, in order to see the truth. If Senator JOHN STENNIS of Mississippi wants to make honest men of northern liberals, I think we should help him. But first we must be honest with ourselves.

Our problem is not only the dual systems of education which exist 16 years after the Supreme Court struck them down in 1954.

The more fundamental problem is the dual society that exists in every metropolitan area—the black society of the central city and the white society of the suburb.

Massive school segregation does not exist because we have segregated our schools but because we have segregated our society and our neighborhoods.

That is the source of the inequality, the tension and the hatred that disfigure our Nation.

The truth is that we cannot separate what has happened in the central cities from what has happened in the suburbs. Black migrants to the cities were trapped in poverty because the whites who fled to the suburbs took the jobs with them and then closed the door on the black man.

The implications of this are obvious.

We cannot solve our urban crisis unless we include the suburbs in the solution. We can talk all we want about rebuilding the ghetto, better housing, tax incentives for job development, and massive funds for education. Hopefully, we may even do this.

But improving the ghetto is not enough.

One reason is that it fails to offer to the black man something we have heard much about in this chamber recently: Freedom of choice. The black man must have the freedom to choose where he wants to live, where he wants to work, and where he wants to send his child to school.

If he wants to remain in a central city, he should be helped. But a man should not be condemned to a ghetto when opportunity exists elsewhere.

The second reason why improving the ghetto is not enough is because the opportunity—the jobs and the housing—are in the suburbs.

According to the Suburban Action Institute, a nonprofit agency located in White Plains, N.Y., 80 percent of the new jobs created in large metropolitan areas during the past two decades are located in the suburbs.

Yet the black and the poor remain in the central city, either unable to take advantage of them or able to take advantage of them only at great personal inconvenience.

Studies by Prof. John Kain of the Harvard University Department of Economics estimated that in Chicago as many as 112,000 blacks would leave the central city if they could choose a home near their place of work. In Detroit, Professor Kain put the figure at 40,000.

How much more sensible, both in terms of economic growth and simple humanity, it would be to open up our suburbs to the black and the poor, so that they live near their places of employment.

Many will argue that the blacks no longer want integration. And whenever a black man says this, you can almost hear the sigh of relief in the suburbs. Many Negroes may not want integration. But many will. And our responsibility is to provide access to that opportunity. The suburbs are the new America. That is where the private economy is moving. That is where our growing population will be housed. We cannot exclude millions of Americans from that growth because of the color of their skin or the size of their income.

How shall we proceed? In the first place, we should encourage private industry to take a major leadership role. They have as much at stake as anyone.

Suburban Action Institute estimated that a year ago the unfilled suburban jobs across the country totaled 250,000. These could have provided work for many unemployed or underemployed central city residents. But where were they to live?

American industry could make an enormous contribution. First, it could hire men and women from the central city to work in its new suburban plants. Second, it could use its taxpaying potential to obtain from the suburbs low-income housing for those central city workers it is hiring.

I do not underestimate the difficulties of this. I suggest it to point out that there are voluntary paths we can travel in order to begin seriously solving the racial crisis in this Nation.

There is also a role for the Federal Government. We can develop a more useful concept of impacted aid to schools. We can provide special funds for those suburbs, towns, and school districts that provide housing and employment for blacks from the central city. If achieving such a breakthrough requires beginning with limited numbers, we should consider this, as long as the numbers are large enough to be meaningful. The key point is not ideological purity. It is social growth.

The Federal Government should also review its urban policy and all its urban programs, to learn whether they are all aimed at rebuilding the ghetto, or whether they contain any incentives to include the suburbs in the solution of our urban problems. If not, we should devise new programs.

The Federal Government also should refuse to locate Federal facilities in suburban communities until guarantees are received that housing will be provided for low-income people who work for that Government agency. In the past, the Government has decided to move and then tried to help its employees after the fact. This places an unfair burden on the low-income worker, who is usually black.

But what shall we do about the immediate situation that is before us—the segregated schools in both North and South?

It seems to me that our objective now is to provide the best education we can under the circumstances. We know that much of the money Congress appropriated for ghetto schools has been diverted and misspent. And as for those who say we do not know how to teach ghetto children, how do they know? Have they ever tried, Mr. President?

There are experimental schools throughout this country that are teaching black children—with great success. Harlem Prep is taking dropouts off the street, and placing them in an informal and supportive school in which the students set the pace. These "dropouts" are now in college.

Other experimental programs are in progress, and have much to tell us about new developments in teaching, curricula, and student motivation.

We should be spending more time understanding and supporting these kinds of developments.

We seem to have lost sight of the fact that the purpose of education is to help the child.

Let us start talking about education that way—and concentrate on building the system around the needs of children, not forcing children to meet the needs of the system.

Mr. STENNIS. Mr. President, I want first to commend the Senator for what I think is a very sound and also a very courageous speech, which I believe will prove to be a landmark in the search to find a solution to these conditions. I commend him very highly. I knew nothing about his plan until nearly 10 o'clock this morning, when he was very thoughtful indeed to call me.

As I say, I think this is a landmark, a trail-blazing speech, recognizing that the segregated school and all that goes with it is produced by a segregated society.

That is one of the points we have been trying to make but have not made it as clear as the Senator has.

I believe that this now will be seriously considered by the people of the Nation, the editorial writers, and the news media. I believe it is a new dimension. I believe that now there will be an earnest anal-

ysis by many others, where the Senator has led the way. I hope that those who oppose the Senator's views, if there are any, would ask him questions.

Mr. RIBICOFF. I would hope so, too.

May I say to the Senator from Mississippi that, personally, I have been troubled about this matter for many years, as a Governor, as Secretary of Health, Education, and Welfare, and as a Senator. I have followed the discussion of the Senator from Mississippi and, again, I have been deeply troubled.

I am troubled over the fact that we in the North are so easy with solutions for problems and people 2,000 miles away from where we live; yet we turn away—our faces, our minds, our heads, and our hearts—from problems that are 6 blocks from where we live.

Unless we address ourselves, as a Congress, as a President, and as the people to the basic issue, this society of ours will be driven apart until there is no basis for a society to exist as a whole.

It has hurt me to see, suddenly, the whole ethnic problem, the black problem, the color problem, coming to the fore, when for many years we thought that a fluid society had finally been achieved and there were opportunities in this country for everyone, irrespective of race, color, creed, or religion. Yet, since 1954 I cannot say that the problems have become better. I must admit that I think they have become worse.

It would have been easy for me to be silent. But I woke up Sunday morning and felt that the time had come for us in the Senate to take a look at ourselves. We have plenty of problems. To look down our noses at the people of the South and come up with solutions for them, without having the guts to face up to our own problems, is the depth of hypocrisy; and I determined to spend the day yesterday to write this out.

I think we owe the Senator from Mississippi a debt of thanks, not for his amendments, because I am going to vote against one and I am unhappy about the other; but I think the Senator from Mississippi has held the mirror up to Northern hypocrisy. Unless we in the North look at ourselves from a realistic point of view, we are not going to solve this problem, and the problem is becoming more and more compounded in the North.

I make the prediction to those in the North that the southerners will solve the problems of black and white before we in the North will. We have a deep obligation, those of us in this body, if we love our States and our country and our people, to start talking frankly and candidly of what must be done, instead of having a lot of meaningless legislation, a lot of talk, and spending billions and billions of dollars that achieve little.

Never in the history of any nation has an education system been so on the point of disintegration and decay as is the education system in this country. Where have you ever seen, in any nation in the world, a situation develop that on the high school and junior high school levels children go to school in an armed camp—where there are guns and knives, blacks versus whites, police in schools to regulate, principals and teachers afraid for their very lives? And this is all over this Nation, in every city in this land. It is not just a Southern problem; it is a Northern problem. We are developing violence and hatred right in the midst of school systems.

We are not going to be able to find a unitary school system and one method to solve all the educational problems in this country. But we had better start looking at these problems in depth if we love our Nation and love our children.

Much needs to be done, and I would like to see frank talk on the floor of the Senate; because, if it cannot be done here, frankly, I do not know where in this country it can be achieved.

I yield to the Senator from Vermont.

Mr. AIKEN. I merely want to say that I do not rise to ask questions of the Senator from Connecticut. It is very difficult to find questions to ask of the truth, any way.

I do want to say that, as a New England neighbor, I commend him and congratulate him on having the courage and the nobility—maybe I will use that word—to stand up before the Senate and tell the truth as he has just done.

Mr. RIBICOFF. I thank my distinguished colleague, the Senator from Vermont.

Mr. TALMADGE. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield to the chairman of the subcommittee, and then I will yield to the Senator from Georgia.

Mr. PELL. Mr. President, as the manager of the bill, I have been among those, I suppose, who are responsible for making this a silent Chamber, but I have tried throughout to concentrate on the educational aspects of the bill. I realize that civil rights is woven into it. But, being chairman of the Subcommittee on Education, I would hope that we could resolve this civil rights issue in a civil rights bill, and I would hope that these matters could be discussed in terms of the Civil Rights Act of 1964.

I would hope that, regardless of whether the amendment of the Senator from Mississippi is adopted, rejected, or tabled, the attention of this body would be directed more to the question of the kind of education this legislation will produce, the quality of it, and that we could separate civil rights from this mix. If we cannot separate it, then we must face up to it. In this regard, the Senator from Mississippi is helping us and is spurring us on.

I must add that I agree with the Senator from Connecticut in that I think the basic human prejudice in our souls, the feeling of prejudice, is probably less in the South than it really is in the North; because we in our hearts are a bit hypocritical in this regard. As the Senator from Louisiana very justifiably said, we go home and talk liberalism to each other but do not practice it. It is not practiced too much in the South, either, but none of us has a monopoly on virtue in this regard. I think the Senator from Connecticut has done us a service in bringing forth this factor.

I cannot agree to support the amendment of the Senator from Mississippi, but I do think that it has caused us all to examine the problem; and I would like those with minds more experienced than mine in civil rights legislation to see if we could unravel the civil rights from the education issue and discuss it in the civil rights context.

Mr. RIBICOFF. May I say to the distinguished Senator from Rhode Island that, personally, I do not look at this issue as a matter of legal technicalities. One can say all he wants that he is going to separate the problem of civil rights from education, but it is impossible to do so today, because this is the burning issue that is about to destroy our society.

This is not just a question of blacks in the South and education in the South. Let me cite a few figures from New York City. In New York City, with a total enrollment of 1,360,000 students, 44 percent, 467,000, are white. The blacks constitute 31.5 percent, 335,000, and Spanish people, 23 percent, 244,000. Of these, 90,000 blacks are in 119 schools which are 99 to 100 percent minority; 201,000 blacks are in 322 schools that are 80 to 100 percent minority group.

In Ohio, 105 schools are 98 to 100 percent black.

In Philadelphia, 57 schools, with 68,000 children, are 99 to 100 percent black.

In Illinois, 72 percent of the black students attend schools that are 95 to 100 percent black.

In the city of Washington, the place where we now reside and legislate, 94 percent of the students are black. Albert Einstein himself could not take 94 and 6 and come out with 50–50. We know therefore, that we just cannot desegregate the schools in Washington, D.C.

Do we then throw up our hands and say, "This is a terrible thing and we can do nothing about it?" No. We are in a realistic bind. This is a black city so far as education is concerned.

Let us not kid ourselves. Wherever we go across this land, when blacks move in the whites move out, and if they have children, they move as far away as they can.

What shall we do? Shall we chase the whites with buses, with helicopters, or with airplanes, to try to get an equitable distribution?

We know that will be almost impossible but, at the same time, we cannot condemn the 94 percent of black children in Washington, D.C. We must develop their schools to make sure that they get the best education we can give them.

We know that education in this country is as bad as it can be. We know that it is old fashioned, irrelevant, and not meaningful.

Senators know that in some black communities they talk a language that is so different from what we speak here, that it is almost a patois, a language that is scarcely English. There are many schools in black areas which provide education on a bilingual basis, but the textbooks are written in the language that children do not understand. The teachers have not received any adequate training in the teachers colleges which would prepare them to teach children who come from the ghettos.

If we are going to keep this thing from exploding, and try to make life meaningful for the blacks, we have to provide meaningful education in the black communities.

If we can desegregate, fine, we should do that; but we must recognize that there will be communities across this broad land where it will be physically impossible to desegregate. We cannot take the children and send them out to limbo. Thus, we must devise the best kind of education we can conjure up.

I am worried that perhaps that is all we can do at this time. But this thing is going so far and so fast that it will take tough talk and quick action to stop. We must have no more studies. I came across an interesting quotation from Oliver Wendell Holmes recently, wherein he said that we need "education in the obvious rather than investigation of the obscure." How right that is. The tougher our problems get, the better our reports seem to become but it is a waste of time to establish more and more commissions and study groups.

We know what the facts are. We know what the situation is.

The time has come for action.

Let me say to the distinguished Senator that no matter what we do, we are not going to separate education from race in America today, because that is what is on everyone's mind. It is on the minds of the children, on the minds of the parents—on the mind of the whole country.

If we do not solve this problem, all we will be doing is taking it and placing it in the hands of extremists, and not in the hands of the people who are sincerely interested in solving the problem in a rational way.

Mr. TALMADGE. Mr. President, will the Senator from Connecticut yield?

Mr. BAKER. Mr. President, will the Senator from Connecticut yield?

The PRESIDING OFFICER (Mr. CRANSTON in the chair). To whom does the Senator from Connecticut yield?

Mr. RIBICOFF. I yield to the Senator from Georgia, who previously had asked me to yield, and then I shall be happy to yield to the Senator from Tennessee.

Mr. TALMADGE. Mr. President, I wish to express my appreciation to the Senator from Connecticut for his attitude, and the forthright and candid speech which he has just made. He speaks from a peculiar vantage point, having served as a former Representative from his State of Connecticut, then as Governor of his State, then as Secretary of Health, Education, and Welfare, and now as a distinguished Member of this body.

He is one of the first Senators outside the South who has had both the courage and the candor to stand on the floor of the Senate and state the situation as it actually is.

Let me read an excerpt from his speech:

> In the North, 50 percent of black children attend predominantly black schools.

He made reference also to the District of Columbia, our Nation's Capital, and where this Congress sits. In my judgment, it is probably the most segregated city in America at the present time. I know that it is far more segregated than any substantial town in my State of Georgia.

The Senator from Connecticut has also cited many figures in other areas of the country which are also segregated. Yet the thrust of the Supreme Court's decisions in recent years and also, of course, the thrust of the Department of Health, Education, and Welfare decrees have been totally aimed at the South. They have been restricted to the South exclusively. Every other section of the country has been excluded.

I would point out to the Senator that last week our former colleague, and former distinguished Vice President, Hubert Humphrey, made a speech at Emory University in Atlanta, Ga. I hold in my hand an article from the Atlanta Constitution of February 4, which states:

> Former Vice President Hubert H. Humphrey declared here Tuesday that orders to desegregate schools "should be applied nationwide"—not just in the South.

Further, in the same article I quote from the former Vice President:

> "The de facto segregation in the North is often more sinister than the . . . segregation of the South," Humphrey declared.

Mr. President, I ask unanimous consent to have this article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Atlanta Constitution, Feb. 4, 1970]

INTEGRATE NORTH, TOO, HUMPHREY SAYS HERE

(By Bill Shipp)

Former Vice President Hubert H. Humphrey declared here Tuesday that orders to desegregate schools "should be applied nationwide—not just in the South.

Thus the liberal former vice president put himself publicly in support of Gov. Lester Maddox's suit in federal court to force equal enforcement of desegregation orders.

At a news conference at Emory University, the 1968 Democratic presidential nominee also:

1. Attacked the Nixon administration as "schizophrenic" for vetoing funds for health, education and welfare while at the same time advocating increased spending for the anti-ballistic missile system.

2. Declared that a Supreme Court justice "should be devoid of any racial prejudice," then quickly added that he did not necessarily mean that Supreme Court-nominee Harrold Carswell was prejudiced.

3. Predicted that the South will be "fed up" with the Republican party in four years, but said the Democrats "face a great test" in the 1970 elections in trying to recoup losses of governorships and congressional seats.

4. Said President Nixon's administration will be strengthened greatly if Nixon's de-escalation of the war in Vietnam is successful.

Humphrey, delivering the Pillsbury Company Centennial Lecture entitled, "Institution in Crisis: A Reasoned Response," at Emory Tuesday night, said:

"We must reform the legislative process in Washington, in our state capitals, and in our cities and towns. Can we deny that Congress is unresponsive to the public interest, when it takes 17 years to pass medical care for the aged, or when providing economic opportunity and ending poverty takes second place to piling on more costly weapons of war?

"Can we deny that state and local governments have often failed to provide good schools or to give people a sense that their needs are being met?"

At the press conference, Humphrey said dual school systems—one for whites, one for blacks—should be abolished throughout the country. But he added that court orders aimed at this "should be applied nationwide," not just in the South.

["The de facto segregation in the North is often more sinister than the . . . segregation of the South," Humphrey declared.]

RAPS NIXON

The Democratic leader took out after the Nixon administration because of the presidential veto of $1.26 billion in HEW funds while the administration seeks $1.5 billion this year to develop the Safeguard anti-ballistics missiles system.

"If there was ever a schizophrenic administration, then this is it,"' Humphrey said. He described Nixon's spending proposals for education and other domestic needs as a "budget in retreat" and said the Republicans were "late comers" in worrying about control of pollution.

He said Democrats, such as Sen. Edmund Muskie of Maine, were responsible for most national anti-pollution efforts to date.

Humphrey said he expects the South to return to the Democratic fold at the end of the next four years because Dixie "knows that its hopes for the future lie with the Democratic party . . . despite the Republicans' so-called Southern strategy."

NO PREJUDICE

Asked his views of the Carswell nomination, Humphrey said the "first standard of a Supreme Court justice should be that he be devoid of any racial prejudice." He said he didn't necessarily mean Carswell was racist and said his pro-segregation speech of 1948 should not be held against him.

Humphrey asserted that Nixon will be helped by his planned disengagement of forces in Vietnam, if it works. But if it is "subject to the veto of the North Vietnamese or the sporadic attacks of the Viet Cong, then he will be in very serious difficulty."

He said he personally hopes the Nixon plan works out "so we can get on with the business here at home."

Humphrey was accompanied by his wife, Muriel. They plan to leave Atlanta Wednesday for a Democratic fund raising gala in Miami Wednesday night.

Mr. TALMADGE. Mr. President, the Senator from Connecticut also mentioned the New York school system. In today's New York Times, on its front page, there are published two revealing articles under one headline, "Racial Strife Undermines Schools in City and Nation." One of the articles is entitled "City High Schools Affected," as written by Joseph Lelyveld and the other article, "National Trend Found," written by Wayne King.

Mr. President, I ask unanimous consent to have these articles printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 9, 1970]

RACIAL STRIFE UNDERMINES SCHOOLS IN CITY AND NATION—CITY HIGH SCHOOLS AFFECTED

(By Joseph Lelyveld)

Racial fears and resentment are steadily eroding relations between white teachers and administrators and black students in many, possibly most, high schools here.

In a few schools, this erosion has gone so far as to create conditions of paralyzing anarchy in which large police detachments have been deemed necessary to keep class-

rooms functioning and put down sporadic outbursts of violence by rebellious students.

More generally, the widening gulf between white adults and black youths in the schools convinces increasing numbers of blacks and whites that the fading promise of school integration can never be more than a hollow piety.

A two-month survey by The New York Times of a cross-section of the city's 62 academic high schools—some predominantly black, others mostly white, some troubled and others ostensibly calm—indicated that racial misunderstanding appears in some schools not just as a fever that flares now and then but as a malignant growth.

In such schools adults and youths seize on narrow one-dimensional views of each other.

In the eyes of many teachers, students who express feelings of racial pride by donning the African shirts called dashikis and wearing talismans, or by sewing the emblems of various black power movements to Army combat jackets, surrender the status of children for that of "hard-core militants."

"We are faced with a very, very specific political movement," charged James Baumann, a co-chairman of the United Federation of Teachers chapter at Franklin K. Lane High School, a neocolonial fortress on the Brooklyn-Queens border where a force of 100 policemen was stationed last October after an outbreak of racial violence. "A small, dedicated group of militants is trying to polarize the student body and establish a totally black school."

A respected Brooklyn principal, who didn't want to be quoted by name, talked not of small minorities but uncontrollable masses. "What can you do," he asked, "when you have 1,000 blacks in your school, all programed for special behavior and violence?"

In the eyes of many black students, teachers given to such interpretations lose their identity and vocation and merge into that monolith of rigid, hostile authority known collectively as "the Man."

A FALLEN HOUSE

"As soon as they get the cops behind them, they show how racist they are," said a Lane student regarded by teachers as a "militant" leader. "We're trying to get ourselves together but they don't like that. They want to get us out. That's boss [great]! Black people shouldn't go to that school."

A black senior at George W. Wingate High School put his disaffection more broadly: "The school system? Like man, it's a fallen house."

Often under pressure the two sides conform precisely to each other's expectations with results that are mutually disastrous. Then teachers are openly taunted and abused, firebombs and Chemical Mace are discovered in stairwells, and racial clashes erupt between black and white youths who normally keep a safe, formal distance between them.

In 1969 incidents of this type were reported in more than 20 high schools here.

"The youngsters are militant—everyone's militant," said Murray Bromberg, principal of Andrew Jackson High School in Queens.

Much of the anger of teachers and students can be traced to the frustrations both suffer in classrooms.

WE AIM HIGHER

In the furor over whether it is the schools that are failing to teach blacks and other nonwhites or the students themselves who are failing to learn there is one undisputed fact—that the results are catastrophic.

The level of educational achievement accepted as a norm in many schools was indicated last month by a letter sent to the parents of all students at Lane. "We are not satisfied just to bring every senior up to the eighth-grade level of reading," it said. "We aim higher."

Many black students are registered in watered-down "modified" courses that lead nowhere. Even in schools that boast of being integrated, these classes are often all-black.

But the small minority of students labeled "militants are almost never drawn from the mass of undisciplined students, semiliterate dropouts, truants or drug users. Frequently they are among the most aware and ambitious black students in the school—the very students, teachers commonly say, who should concentrate on their studies and "make something of themselves."

IRONIC SITUATION

Some observers regard it as ironic, even tragic, that these students and their capacity for commitment should be seen as a threat. "The fact is that they are an articulate and committed group of youngsters looking for change and reform, said Murray Polner, assistant to Dr. Seymour P. Lachman of the Board of Education.

But that has been distinctly the minority view, especially since the three teacher strikes over the community control issue in Ocean Hill-Brownsville late in 1968.

"That was the precipice," said Paul Becker, a Wingate teacher who broke with the union after the second strike and now is active in the Teachers Action Committee, which favors community control. "After that it was downhill all the way. It was 'us' against 'them.' "

Many black students are still outraged by the memory of epithets and abuse from U.F.T. picket lines. "There were teachers shouting, 'Nigger!' " recalled Billy Pointer, a Wingate senior, in the course of a recent group discussion on human relations.

"No, Billy, that's not right," said Martin Goldberg, a social studies teacher. "I have to admit that some teachers used unprofessional language but I'm almost sure that none of them used the word 'nigger.' That must have been parents."

Later, the teacher commented: "I hate it when people who aren't racists say 'nigger.' "

That the clash of values has not been exclusively racial was demonstrated at Jackson where black students last year agitated successfully for the appointment of a black assistant principal.

This fall the new man, Robert Couche, was stunned to find himself denounced as a "house nigger" after having been regarded himself, he says, as an "extremist" at his previous school.

More recently, these same black students threatened demonstrations to block the transfer of young white teachers whom they considered sympathetic.

Negro school administrators like Mr. Couche find themselves in a lonely, uncomfortable position where their motives are often over-interpreted or misinterpreted by both their white colleagues and black students. Nevertheless there are many who believe that the advancement of more blacks to positions of real authority in the system offers one of the few possibilities of blunting the racial confrontation.

At present few high schools have faculties that are less than 90 per cent white; only three have Negro principals. White teachers often complain that Negroes are being favored for promotion, while many blacks say that the system advances only the "safest" Negroes.

"Now if you don't bite your tongue, you're a 'militant,' said Charles Scott, a former head of the U.F.T. chapter at Jackson who is a leader of a faculty Black Caucus there that sees itself as a counterpoise to the union.

STUDENT "WILLING TO DIE"

Many white teachers are convinced that there is a carefully plotted conspiracy for a black "takeover" of the high schools—those of North Brookyln and South Queens, in particular—by the same forces that were active in Ocean Hill-Brownsville. The evidence they most often cite is the words and rhetoric of black student activists and adults who influence them.

A newsletter of the African-American Teachers Association calls for support of black students who "seek 'through any means necessary' to make these educational institutions relevant to their needs."

At Lane, a student sent tremors through the faculty by proclaiming his willingness "to die for the cause."

What do such declarations mean? John Marson, the self-possessed chairman of the African-American Students Association, replied that violence was the only power students had to "back up what they say," comparing it to the power of the U.F.T. to strike.

But he scoffed at the ideas many teachers hold about a conspiracy. No one can tell the students in the various schools what to do, he said.

That wasn't the way it seemed last semester to Max Bromer, the beleaguered Wingate principal. "It's all planned, it's all planned," he insisted when he was visited one day in his office, which looked like a stationhouse annex with four or five police officers lounging at a conference table and a police radio crackling in the background.

Pressure was building up in the school, he said, and he had reliable intelligence warning him of a likely cafeteria riot in the sixth period.

A white teacher came into the office and reported that the cafeteria was quieter than it had been in weeks. "They're massing," the principal surmised.

When the sixth period passed without incident, his anxiety shifted to the eighth. Finally the school empties. Was it all a false alarm? "No," he said, "it was psychological warfare."

Mr. Bromer's responses can't simply be written off as jitters, for he had seen his school brought to the edge of a breakdown by racial hysteria and violence, despite what he thought had been a successful effort the previous semester to negotiate an "understanding" with the "militants."

As regularly happens, he has also seen many of his most experienced white teachers flee the school as the proportion of nonwhite students shot past the 50 per cent mark.

Wingate's troubles last term boiled out of a controversy over where to draw the line on expression by black students—the starting point of most racial explosions in the high schools. That line had been clearly transgressed, most teachers felt, in an assembly program staged by the school's Afro-American club.

Two passages were seen as particularly offensive—a recitation of an old Calypso ballad popular among Black Muslims ("A White Man's Heaven is a Black Man's Hell") and a line from a skit ("Brothers and sisters, we can't live if we continue to support the pigs by buying their dope and kissing their —— and letting them label us.")

BLACKS AROUSED

White students weren't shocked by these lines but by the angry pitch to which black students in the audience seemed to have been aroused. "I was actually embarrassed to be white," one girl said, "because I thought they hated me for something I didn't do."

Teachers saw the program as a deliberate provocation. "The nerve! The nerve! The nerve!" one fumed.

A week later racial clashes broke out in which many more white students than blacks were injured. In fact, many teachers had assumed that a racial confrontation had been in progress ever since the assembly. Black students identified as "militants" complained that they immediately became objects of suspicion.

Many Wingate teachers assumed the students were being manipulated by "outside influences." They singled out Leslie Campbell and Sonny Carson, two fiery figures in the Ocean Hill-Brownsville dispute.

I WAS WHITELISTED

Mr. Campbell, a 29-year-old Lane alumnus who is softspoken in conversation and anything but that in confrontation, lost his teaching post in the demonstration project last fall—"I was whitelisted," he says—and had just started a "liberated" high school, in Brooklyn for black students with the backing of the African-American Students Association.

Called the Uhuru Sasa (Freedom Now) School, its curriculum will include courses in martial arts, Swahili and astrology.

Asked to describe his relation to the students, Mr. Campbell didactically sketched a diagram on a pad before him.

"This is the soil," he said, pointing with a pencil. "The minds of these kids is fertile soil but it just lays there in the schools. We supply the seed—an understanding of black nationalism and the political situation."

Mr. Campbell said he was out of "the demonstrations bag." Mr. Carson, a onetime leader of Brooklyn CORE, is still in it. He likes working with students, he said, because they haven't been compromised by "the system."

"These kids are already liberated," he exulted. "They're beautiful."

Black students here reflect a mood of self-awareness that can be found at almost any high school or college in the country with a significant black enrollment. Some are imbued with sloganistic fervor. Some want an outlet for anger. Others are tentatively working out a life style. Many are just happy to "belong."

A few imagine romantic futures for themselves as black revolutionaries. But most think in conventional terms of gaining skills that will make them useful to their people.

Most of them seem more indifferent than hostile to whites. "I can only care about the people I relate to and the people I relate to are all black," said a youth in Panther garb at Jackson.

Linda Jacobs, a black senior at Thomas Jefferson High School in Brooklyn, was similarly casual when asked about her reaction to the flight of whites from her school, which has gone from 80 per cent white to 80 per cent nonwhite in only five years. "It doesn't bother me, not one bit," she said.

FAKE ADDRESS USED

Many whites from the Jefferson district have used fake addresses to send their children across the racial boundary formed by Linden Boulevard to Canarsie High School, which is about 75 per cent white—"a nice, solid ethnic balance," according to its principal, Isadore S. Rosenman.

But Canarsie has had its troubles. After rioting last year it found it expedient to eliminate the lunch period, as a way of preventing racial clashes in the lunch room.

Canarsie has also tried positive measures to overcome the disinclination of black students to become involved in the school's extracurricular life. For instance, it is now routine to have two bands at all dances, one black, the other white.

Teachers use words like "magnificent" and "beautiful" to describe relations at Canarsie. But most black students appeared to agree with Vernon Lewis, a senior, who said, "Here you always have the feeling there is someone behind you, looking at you."

A SHARP CONTRAST

They contended that they would have more freedom of expressing at a predominantly black school like Jefferson. The contrast between the bulletin boards of the Afro-American clubs at the two schools indicated the range. The Canarsie board told of scholarships available to blacks; the one at Jefferson carried the Black Panther newspaper.

Despite the publication of a code of students' rights by the Board of Education last October, there remain extraordinary variations in the degree of expression on controversial issues—racial issues, especially—permitted to students.

At Brooklyn Tech—a "special" school for bright students that is more than 80 per cent white—a dean last year ordered the removal of a picture of Eldridge Cleaver from the cafeteria on the ground that the author and Black Panther spokesman was a "fugitive from justice."

This year the principal, Isador Auerbach, summoned a police escort to remove a black "liberation flag" on the ground that state law forbade any banner but the American flag in the schools.

Ira Glasser, associate director of the New York Civil Liberties Union, termed this a typical case of "the lawlessness of principals." There is no such provision, he said.

ANOTHER VIEW

By contrast, Bernard Weiss, principal of Evander Childs High School in the Bronx, saw no need to react to the posting of a picture of Huey Newton, the Black Panther Minister of Defense, on a bulletin board in his school.

"We want kids to read, we want kids to discuss," he explained. "We don't teach revolution. But if that's what they want to discuss, at least we can make sure they hear both sides."

Evander is about 50 percent white, and most of its white students are from predominantly Italian, deeply conservative neighborhoods of the Upper Bronx—the perfect ethnic mix, it is sometimes said, for an explosion. But though the school has had some close calls and thorny issues, it has had no major eruptions of racial violence.

The school that has come closest to a breakdown—and has thereby raised the specter of ultimate disaster for the whole system—is Franklin K. Lane, which is next to the mausoleums of the Cyprus Hills Cemetery.

On one recent afternoon, chemical Mace was released on a staircase, a fire was started in a refuse can in the lunchroom and a tearful white girl, reporting that a gang of blacks was waiting to ambush her, demanded a police escort to her bus stop.

"Just a normal afternoon," said Benjamin Rosenwald, a dean.

Normality at Lane also included an ominous stand-off in the cafeteria between white policemen with little metal American flags stuck in their caps and black students standing guard beside a "liberation flag." Routinely, the students taunted "the pigs." The officers masked their reactions behind stiff smiles, but not one of them had his nightstick pocketed.

Many white students are afraid even to set foot in the cafeteria, known to them as "the pit." A handful have been kept out of school altogether by their parents for the last three months.

There are those who find a simple explanation for Lane's woes—the racial incongruity between the school and its locale.

Lane is about 70 per cent black and Puerto Rican but stands in a neighborhood that is entirely white and aroused on racial issues. Mainly Italian and German by ethnic background, the district sends Vito P. Batista, the Conservative, to Albany as its Assemblyman.

But, in fact, the residents were not the first group to become militant over the racial situation at Lane. Neither were the black students. Militancy began with the local chapter of the United Federation of Teachers, whose leaders complained five years ago that Lane was becoming "a dumping ground."

THE UFT POSITION

The UFT demanded that the Board of Education hold the blacks to under 50 per cent and, when that point was passed, they demanded that a racial balance be restored.

The teachers insist that their only interest has been "quality integrated education." But the UFT has never proposed that black students cut from Lane's register be sent to schools now predominantly white.

George Altomare, a union vice president and a social studies teacher at Lane, was asked recently if he thought a black-white balance would also be a good idea for a predominately white school like Canarsie. "Ideally yes," he replied slowly, adding the proviso that more high schools would first have to be built to relieve overcrowding.

But Mr. Altomare believes there must be no delay in implementing a union proposal to make Lane a "prototype" of effective integrated education—to be accomplished by cutting its register by one-third and introducing special training in job skills for students not continuing to college.

It is only on paper that Lane is now overcrowded, for its average daily attendance is under 60 percent.

Black students find a simple explanation for the faculty's insistence on reducing the student body. "Lane doesn't like us and we don't like Lane," one declared.

Since the strikes in 1968, Lane has gone from crisis to crisis. Last year a shop teacher, identified in the minds of some students as a supporter of George C. Wallace, was assaulted by young blacks who squirted his coat with lighter fluid and set it on fire.

ACTION OVERRULED

The assault, which was followed by the threat of a teacher walkout, led to the placing of a strong police detachment in the school and the dropping of 678 students—mostly blacks—from its register, an action later declared illegal by a Federal Judge.

Even before the assault, the union chapter had placed a special assessment on its members for "a public relations and publicity campaign" aimed at winning the support of "business, civic, political and parent groups" for its position.

This effort helped arouse the surrounding white community, which formed an organization called the Cypress Hills-Woodhaven Improvement Association specifically to protest disorders at Lane.

Michael Long, chairman of the group, said the union had hoped to use it as a "battering ram," then disowned it when it demonstrated for the removal of the school's principal, Morton Selub.

Now Mr. Long worries that he may not be able to control vigilante sentiment in the community if there are further disorders at Lane.

A FAMILIAR DISPUTE

The breakdown at Lane last October had a familiar genesis—a dispute over whether black students had the right to fly the "liberation flag" in place of the American flag in a classroom where they studied African culture.

After the flag had been removed from the room two days running, the students staged a sit-in to protect it, setting off the cycle of confrontation, suspensions and riots.

Black student activists at Lane don't deny that they have resorted to violence to press their demands, or "raise tensions to help a brother," or to "keep things out in the open."

They also acknowledge that they have not tried to discourage assaults on whites by younger black students outside their own group who want, as one activist put it, "to express their anger and let the white students know how it feels."

What they do deny is that their insistence on the "liberation flag" was an attempt to do anything but stake out a single classroom where they would be able to express themselves freely.

"Students want to relate to what's happening in their school," said Eugene Youell who prefers the adopted name of Malik Mbu-

lu to his "slave name" and now has enrolled in Leslie Campbell's new school.

FOCUS OF PRESSURES

Some schools see a point in struggling to prove to themselves and their most aroused black students that there is a place for them in the schools and an incentive to study.

At Jackson, a school that appears to be on its way to becoming all-black, the principal has become the focus of a wide range of pressures—from white teachers, black teachers, middle-class Negro parents who want their sons and daughters protected from radical influences, and some black students who believe they have the right to conduct public readings of the thoughts of Mao Tse-tung or anyone else.

Recently the principal, Murray Bromberg, went before a history class devoted to "the evolution of today's African-American experience" and boasted, "This is the school of the future."

He said it was time for white school administrators and teachers to revise their assumption that standards must inevitably be lower in an all-black school.

His audience seemed to be itching to provide the principal with a list of assumptions about black youths that white adults could revise. But if they were "militants," they were also very obviously teen-agers who found no incongruity in wearing a big "I Support Jackson Basketball" pin next to a "Free Huey" button.

In fact, the African-American Club at Jackson has discovered it cannot hold meetings on the same day as a basketball game. Too many of its members are boosters.

RACIAL STRIFE UNDERMINES SCHOOLS IN CITY AND NATION—NATIONAL TRENDS FOUND

(By Wayne King)

Racial polarization, disruptions and growing racial tensions that sometimes explode into violence are plaguing school administrators in virtually every part of the country where schools have substantial Negro enrollments.

The degree of racial unrest was detailed in reports from a number of cities and in studies conducted by Government and private sources. They pointed to the following trends:

While there are indications that the dramatic increase in "issue-oriented" disruptions in the major areas last year may have leveled off, primarily as a result of some apparent accommodation by school officials, racial tensions continue at a high level and appear to be increasing.

The same kinds of disruptions and clashes that have occurred in major cities, particularly in the North, are cropping up increasingly in medium-size cities.

The pattern of school-oriented racial protest and tension is becoming more apparent in the border states and the South as schools there become more integrated.

Racial tensions seem to be moving downward in grade levels, with problems becoming more apparent at lower secondary levels and below.

Many of those studying or involved directly in school racial problems are outspoken in the attitude that an even-handed, "colorblind" approach will not work. Instead, administrators are increasingly being urged to become "color-conscious," to meet problems head-on and stringently to avoid apparently repressive measures, such as calling in the police.

No section of the country appears to be free of serious racial problems in schools.

39 RACIAL INCIDENTS

In a study of "confrontation and racial violence," the Urban Research Corporation in Chicago collected newspaper accounts of racial incidents that occurred at schools in 39 cities, towns or counties, from the beginning of the school year, last September into January. The private research corporation monitors national trends and prepares reports for various subscriber groups and organizations, including governments.

The incidents occurred in the following places:

Phoenix, Ariz.; Little Rock, Ark.; Los Angeles, Oakland, Riverside, San Bernardino and San Francisco, Calif.

Also Chicago, Blue Island and Harvey, Ill.; Muncie, Ind.; Kansas City, Kans.; New Iberis, La.; Springfield, Mass.; Pomfret and Prince Georges County, Md.

Also, Detroit and Pontiac, Mich.; St. Paul, Minn.; St. Louis, Mo.; Las Vegas, Nev.; Ashville, Chapel Hill, Lexington and Sanford, N.C.

Also, Atlantic City and New Brunswick, N.J.; Albany, Belport and Middle Island, N.Y.; Cleveland, Ohio; Portland, Ore.

Also Philadelphia and Pittsburgh, Pa.; Greenville and Ridgeville, S.C.; Crystal City, Tex.; Arlington, Va., and Charleston, W. Va.

John Naisbitt, president of the research corporation, noted that the study included only those incidents reported by the press and that some communities had had a series of incidents. Eleven reports, for instance, were gathered in Chicago alone.

A UNIVERSAL TOOL

Many of the incidents, Mr. Naisbitt continued, involved boycotts or closings of the schools. In Portland, Ore., for example, students at Roosevelt High School reportedly walked out over grievances, gained adult support and turned the protest into a city-wide issue. "The school boycott," Mr. Naisbitt said, "is almost a universal tool."

He also noted rising black-white tensions. "In some cities like Chicago," he said, "bigotry is gaining respectability in the face of increased black awareness and black pride."

"These two social forces are on a collision course," Mr. Naisbitt added, "and one of the places it's finding its focus is in our integrated schools."

But the prevailing opinion of human relations directors and others involved with school racial problems was that polarization was traceable more to the quest for "black identity" and unity, and the reaction to it, rather than to racial animosities.

RAPID INTEGRATION

In some cases the two seem to overlap as blacks and whites come under the stresses of rapid integration.

In Detroit's Cooley High School, where fist fights between blacks and whites broke out last fall, black and white students tend to sit on opposite sides of the school cafeteria.

Other Detroit schools have had relative peace, however, and the difficulties at Cooley may be explained with some statistics. In 1964, more than 90 per cent of the students at Cooley were white. Today, more than 50 per cent are black.

White resistance to school integration has also generated some problems.

Gage High School in southwestern Chicago, for example, was integrated in 1965 and now has 400 Negroes in its enrollment of 2,600. The school has had a number of racial student disorders.

About 120 arrests were reported in and near the school last fall, including 92 during the week of Oct. 28.

BLACK REACTION

Explaining the clashes, a 16-year-old Negro student Columbus Tapps Jr., said: "Black students are going to react to insults. A month ago somebody hung a dummy on a rope from a tree in front of the school with a sign, 'Niggers Die.'"

A white student, Terry Conwell, also 16, said: "Only a few cause the trouble. Most of the whites [living in this area] want to keep this community white and resent integration of our school. But most of the kids have sense enough to know the fighting isn't worth it."

In Philadelphia, a spokesman for the school system's Office of Inter-group Education observed that "social separation [between races] has been total and complete."

The office operates in part on a principle it calls "conflict utilization." Once a conflict occurs, the office attempts to capitalize on the focus it creates to investigate and dramatize the underlying causes—community attitudes, conscious and unconscious discrimination, teacher attitudes, etc.—that often have little to do with the immediate cause of the incident.

"FANTASTIC" GAP

"The understanding gap," the Philadelphia spokesman said, "is fantastic."

A similar view was expressed by Dr. Alan F. Westin, a political science professor and director of the Center for Research and Education in American Liberties at Columbia University.

Dr. Westin, who was cochairman of a panel that investigated the causes of the Columbia disruptions in 1968, has been monitoring 1,800 daily newspapers to gather data on student disruptions in secondary schools across the country.

"The color-blind approach, although it works in some areas such as treating everyone alike in restaurants and in public transportations, won't work in education," he said. "If there is a sudden influx of blacks into a school and school authorities take the attitude that they're color-blind, it's guaranteed to create disruption because of the special needs of blacks."

Dr. Westin found that, of 675 secondary school protests reported in the newspapers he monitored last year, 46 percent were caused by racial problems. The study included only demonstrations, sit-ins, fighting or other disruptions. And nearly one out of every five incidents—18.5 per cent whites and blacks.

Although a detailed analysis of the protests in the current school year has not been completed, Dr. Westin said there were preliminary indications that the "big city problems" of protest were occuring more frequently in medium-size cities.

PATTERN OF PROTEST

"There is also a distinct pattern of protest developing in the border states and the South," Dr. Westin said, with Negro student demands centering on the hiring of more black school personnel, the revamping of school curriculums, and similar issues.

He also said there were indications that, in many big cities, the number of serious disruptions growing out of black demands for change had declined.

At the same time, Dr. Westin continued, there is no evidence that racial tensions have diminished. He noted, for instance, "a steady drumfire of fights in cafeterias and out of school, between blacks and whites."

Dr. Westin agreed with authorities who maintained that racial conflicts reflected the black students' striving for identity.

For example, he noted that a major issue last year was the lack of black cheerleaders. Other demands included the serving of "soul food" in school cafeterias and the placing of portraits of black heroes, such as Malcolm X, in school buildings.

Such demands were "symbolic of a need to imprint a sense of blackness on the schools," he said. "The black kids wanted to feel their heritage was as valid as the whites."

Mr. TALMADGE. Mr. President, in conclusion, I desire to ask a question of the distinguished Senator from Connecticut.

According to the figures of HEW, 5.4 percent of Negroes in Atlanta attend schools which are predominately white.

In Chicago, Ill., only 3.2 percent of Negroes attend schools which are predominately white.

In Gary, Ind., only 3.1 percent of Negroes attend schools which are predominately white.

This percentage is what HEW uses to determine the degree of desegregation.

According to these figures, Atlanta is more desegregated than either Chicago, Ill., or Gary, Ind.

Yet the Department of Health, Education, and Welfare and the Justice Department have filed suit against the whole State of Georgia, but has done absolutely nothing about Chicago, Ill., or Gary, Ind. A suit has been handed down in my own State that, despite the Green case, and despite the Civil Rights Act of 1964, has directed the school boards that they must cease to be color blind and now become color conscious, that they must go out and run down and hunt up a numerical ratio of whites and blacks and assign them to schools, against their will, sometimes 20 miles away, when their own home may be adjacent to the nearest school.

Does the Senator feel that a policy of making laws applicable to only one section of the country should prevail in our Nation at the present time?

Mr. RIBICOFF. No. May I say to the distinguished Senator that, to me, there is no difference between de facto and de jure except as a legal technicality.

Mr. TALMADGE. Is it not a fact that at one time every State in the Union had a de jure system of segregation except the State of Massachusetts?

Mr. RIBICOFF. I am not familiar with that, but I will take the Senator's word. May I say this, that what has been happening, practically, is that we have a cycle occurring. In the Senator's State, in Atlanta, for a considerable period of time, for many years, blacks and whites were living in the same area and in the same neighborhood. It was a "pepper and salt" mixture. My information is that in places like Atlanta, it is now reaching the situation where that is being eliminated. Blacks are living in one area completely, and the whites in another area completely.

It is, to me, indefensible to bus a child 20 miles away in order to comply. Busing itself will not be the solution to a problem. This is where we must be very realistic in what we are dealing with if we are interested in the child and not the system. We have to understand when busing will work and when it will not work.

We could not do anything worse to a black child who comes from a poor ghetto than to take him and bus him into a middle-class school. I will explain why.

A small child is in his formative years. As one witness before my committee a number of years ago said:

> You know, there is nothing as beautiful to see as a black child 7 or 8 years old. And then at about 9 or 10 years of age, you have what is known as the death of the heart when the child gets to realize that he is up against a useless situation with no future.

We take a black child from a ghetto who has no breakfast in his stomach, has torn shoes, and torn trousers, and we send him into a middle-class school where the children are well fed and well clothed and come from good homes. The child receives an education in a mixed school.

But that child leaves that school, that warm school he attends with white, clean children who are well fed, and goes back to the slum with rats and vermin, and it is cold and his clothes are still torn. The psychological and philosophical shock to that child is crueler than anything that could be done.

Dr. Robert Coles, a psychiatrist who spent most of his time in the black ghettos of this country testified before our committee when we were holding our hearings on the crisis in the American cities, and I will quote him because he is most knowledgeable in this field.

He said:

> The bus I have been riding transports children between the ages of 6 and 10, very shrewd little children. They embarrass the life out of me a lot of times with their questions. They don't want to ride buses, not because they oppose busing, but because they tell me that I am a fool to think it will lead to anything.

The time has come to quit kidding ourselves, to stop the illusions and stop all the theories and the raising of false hopes that are in turn dashed to the ground.

We raise them with promises and with legislation. Then, they find that their condition is as bad as it has ever been. And there is nothing crueler than to raise hopes and then dash them to the ground.

If we talk about busing, we should do it thoughtfully.

There are places for busing in a city. But to take children and bus them 20 miles does not make commonsense.

Let us talk about children and not talk about forcing the children into a situation such as this.

Mr. TALMADGE. Mr. President, I thank the Senator. I agree 100 percent.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. BAKER. Mr. President, I thank my distinguished and courageous colleague, not for what I believe to be one of the most important, if not the most important, speech that I have been privileged to hear since I have been a Member of the Senate, not because of its particular content or because of the courage of the man who made it, but, rather, because I am persuaded that it may reflect a change in the thinking and the attitude of all of us in this body on approaching this dangerous matter that confronts this Nation today. That refers to the relationship that exists and must be made to exist between the races.

When I came to the Senate in January 1967, I came after having campaigned across my native State of Tennessee proclaiming that, in my judgment, the Civil War century had ended and that after the 100 years since that terrible conflict, the people of my State and Nation were no longer concerned with the historic past and the prejudices that existed, but were rather concerned with the pragmatic approach to a new philosophy that was relevant to the time.

I believed that. I still believe that. But I must confess that I am less certain in that respect than when I came to the Senate, because after a while it began to occur to me—I did my best to resist it—that in some matters, especially in matters relating to education, race relations, and our relations between ourselves in this body, there was still a lingering prejudice on the part of some Members of this body against some of the Members of the Senate because of the origin and the States they represented—a sort of segregation in the Senate, a sort of moral superiority in racial matters. That reflected itself in the assumption that a Member of the Senate from Tennessee, Kentucky, Alabama, or Florida is assumed to vote a certain way and to hold certain prejudices, regardless of his votes or his utterances.

Then it occurred to me that if that were the case, we were playing a very dangerous game indeed, because as one of the two bodies of the legislative branch of the Government, we were judging the most volatile, most clearly important issue before our country on the basis of regionalism, which is as insidious and dangerous as deciding it on a racial basis, because it substitutes an artificial bias for judgment on a particular controversy.

If that is the case, or ever was the case, then I feel that we have never fully emerged from the Civil War century.

I was persuaded to believe we had left the Civil War behind. However, now after 3 years, I have come to fear that my version may not be true. And that is alarm enough for me to stand in my place and say to the Senator from Connecticut that his speech may do more to destroy that attitude and that prejudice and that course which may deprive us of the ability to cope honestly with the problem than any speech I have heard since I have become a Senator.

On the matter of education itself, I think it is appropriate to the remarks I have just made—I might point out with no immodesty—that in the course of my tenure here I voted for the provision of the statute which now graces our statute books and provides by Federal law that any person may live in, purchase a home, or reside in any part of any community he wishes without discrimination. That statute is now referred to as the fair housing statute.

I not only voted for that bill, but I also voted to stop debate on the bill so that we could reach the merits.

Many of my colleagues, especially my colleagues from the South on both sides of the aisle, were roundly critical of that position. I must confess that it was not popular in my State of Tennessee.

I think the Senator from Connecticut has underscored the validity of the basic fundamental right of every citizen of this Nation to live, work, and enjoy life wherever he pleases without any sort of restraint, de jure or de facto, and that no one should be permitted to say that a particular person because of the color of his skin or for any other reason should be prevented from living in a particular

neighborhood or attending a particular school.

That is freedom of choice of the most exquisite sort: The right to choose where you work, the right to choose where you live, the right to choose where you prosper, and the right to choose where you worship; but it is no substitute to say that this law is not going to serve the purpose, but rather that we are going to have some artificial undertaking to create some mythical and mathematical balance of the races within our schools in obedience to some obscure theorum that the quality of education is related to this mythical quota of students. I believe we are dealing with the fluff and not the substance of the problem confronting this Nation. The problem is being honest with ourselves.

Therefore, it is especially satisfying to me to see that the distinguished Senator from Connecticut has taken that first step and said what we must say if we are going to make real progress in this field. We are all alike and equal: North, South, East, and West. We are all alike aside from our prejudices against each other or for each other. Let us attack this problem in good conscience and in good faith on the basis of the requirements of the times and not on the basis of the Civil War century, in a workmanlike way to serve the long-range interests of the children of this country and their children in maximum freedom and opportunity.

That is what the Senator from Connecticut has said and it is what I applaud him for.

Mr. RIBICOFF. I thank the Senator from Tennessee.

Mr. President, I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I thank my distinguished colleague, the Senator from Connecticut. I have been reluctant, despite my expressed feelings to a good number of my friends from the South, to take the floor in connection with this matter. It would be easy for people to say, "CLIFF HANSEN comes from the West, from a State with a total black population of less than 1 percent of those persons who reside in what we call the 'Equality State.'" For that reason and for other reasons I have felt it would be awfully easy to be misinterpreted and misunderstood.

However, I must say after having listened as I have and having read, as I have, what has been said on the floor of the Senate, after taking note of the very extensive and exhaustive study that was launched some several months ago by our distinguished colleague, the Senator from Mississippi (Mr. STENNIS), that I feel I could not be fair to myself, to my constituents, nor to this body if I were longer to remain silent.

I told the distinguished Senator from Mississippi some time ago how I would vote on both of his amendments. He knows I will vote to support them.

It is a fact that in Wyoming there are about 2,000 black people. I suppose some people from my State who come to the Capitol and visit in my office from time to time—and I am privileged to have them—wonder why I have a black man on my staff. Certainly, it was not because of any feeling on my part that I had something to offer the fine young gentleman who works for me, and who comes from the District of Columbia, but rather because I felt the need to learn firsthand if I could a little bit more from a member of a minority group whose concerns, anxieties, and frustrations must be the concerns, anxieties, and deep interest of all of us. I can say that it has been my privilege to learn a great deal from this young man who is on my staff. I am certain I have much more to learn than I know. But calling on the experience and in appreciation of that important contribution, I wish to say we might all better understand something about a problem that has been slowly evolving in this country that started 300 years ago, a problem that cannot be ascribed to the sins of the South. That theory, if there was ever any validity to it, and I doubt there was, must be discarded now on the basis of the facts.

The Senator from Mississippi has pointed out the unfairness of some of the laws we have. For those who contend we should extend those laws I say, "Shame on you." I say "shame" because as the distinguished Senator from Connecticut has already pointed out there is no longer any reason at all to look at the South or any other part of the country with eyes closed, blinded to our own guilt.

If this law makes sense for the South it should make sense for Wyoming, Connecticut, and every one of the 50 States, and it should be applied in that fashion. I think we should keep in mind—despite the fact we are hoping so desperately to give meaning to our pledge that all Americans regardless of race, color, creed, or national origin have equal opportunity with every other American—that we must be realistic.

We need not only to seek the advice and counsel of sociologists who have studied this problem in this country and whose skins are white, but we need also to listen to some whose skins are black. I call upon others to listen to the advice of Bayard Rustin from time to time. I think what he has been saying to the people needs to be repeated. He has said what we need in this country is better education. It is not going to help young black men very much to know more about African dance, or Swahili, or some exotic culture; if the black man is to attain true equality he must be able to compete in the business world. He cannot compete unless he can read and write. He needs skills demanded by today's opportunities.

Mr. Rustin underscored the need for better education.

I think what the Senator from Connecticut has been saying is so abundantly true. Along with my colleague and very cherished friend from Tennessee (Mr. BAKER), I congratulate you, sir. I congratulate you because what you have said has not been an easy thing to say. You have said what a good many others have not said. Perhaps they lacked the courage or the commitment or downright honesty which the Senator from Connecticut has displayed with such great clarity this afternoon.

I am proud of you and I am proud to be associated with you. I hope we can do all those things which will bring about better education, for all of our children and that does not, in my judgment, begin with nor end with busing. I could not agree more than I do with the Senator that it does not make sense to bus a child 20 miles or those who say that busing is all right in the South where there is segregation but not in the North where there is also segregation. I know children can be bused 20 miles. If there is good reason to bus them in the South there is just as good reason to bus them out of the District of Columbia into Maryland and Virginia, and it is just as important to bus white children from Maryland and Virginia into the District of Columbia if that is going to make for better education.

But I do not think that it will make for better education. I say that because, having been Governor of Wyoming, I know of the deep concern to us that the approximate 5,000 Indians we have in the State of Wyoming are not receiving as good an education as they did a few years ago when they had schools on the reservation. The Indian Bureau decided it probably made sense to move those children out of reservation schools and to put them in the public schools. Do Senators know what happened? There was a very sharp increase in the dropout rate and some people were wondering what was happening. I did not know but I, too, was concerned. I asked a friend of mine who was born and grew up in Riverton, which was at one time part of the Wind River Reservation. He said, "The problem is not that the Indian child is unable to compete academically with white children but rather,"—and the Senator from Connecticut has just put his finger on it—he said, "They are not dressed as well. They have shabby clothes. They do not have new shoes. They cannot afford hairdo's others have." As a consequence—not because they were not able to compete academically but because of their pride, and they are proud people, they were unable to compete socially—they preferred to dropout of school.

I hope we can make our schools better. I believe we can. If we can make them better, I will do everything I can to support that effort. But I do not believe that our money will be most wisely spent on busing children out of neighborhoods in which they have grown up.

Young children are sensitive, they can become frighten and even terrified if they are moved out of familiar surroundings into a strange environment. And it makes little difference if the child is white or black. Let us improve our schools—all of our schools, so as to assure that wherever a child lives he has an opportunity for a good education.

I thank my distinguished colleague for his great stand.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. STENNIS. Mr. President, the Senator's time was to expire at 2:30. I do not think some Senators knew that. I ask unanimous consent that his time be extended for 10 minutes.

Mr. JAVITS. Mr. President, reserving the right to object, I am certainly the last person in the world to try to limit a Senator's time——

The PRESIDING OFFICER. The Chair will state that the Senator from Connecticut did not start speaking until 1:38 p.m., because a quorum call was in progress.

Mr. JAVITS. Well, let us get this matter settled. I have no desire to interfere with the Senator's speech or the speech of any other Senator, including my own. I only point out to my colleagues that, at the urgent behest of the leadership, we were to do our utmost to produce a vote today on the Stennis amendment. I only point this out to call to the attention of the leadership that some Members are drifting out and others will do so very rapidly, and it becomes difficult to bring this matter to a disposition. Other than that, I have no objection whatever to whatever time a Senator may wish in the way of debate. I wanted the leadership to be informed as to why the Chair should be restored the right to recognize Senators at 2:30.

Mr. MANSFIELD. Mr. President, if the Senator will yield, I am well aware of what the distinguished Senator from New York has said. I sympathize with him, but I do think the Senator from Connecticut ought to be allowed to go until 1:38 or 1:40. I do not think we ought to adopt the policy in this body of depending on Senators' staying or going. We are paid to stay on the job. That is what counts. We are going to get 3 days off the end of this week. Many Senators are absent who should be here today. They have no excuse at all. So I think we ought to take our chances.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. RIBICOFF. Mr. President, may I say that, basically, my speech took 15 minutes. Several Senators engaged in colloquy. I think they should have the courtesy of making queries.

I ask unanimous consent to proceed for an additional 15 minutes. I see three Senators standing.

Mr. MANSFIELD. Mr. President, we ought to stick to the original request of 10 minutes by the Senator from Mississippi.

Mr. STENNIS. Mr. President, if the Senator will yield, that was for an additional 10 minutes.

Mr. MANSFIELD. That is right.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request that the Senator be permitted an additional 10 minutes? Without objection, it is so ordered.

Mr. RIBICOFF. I yield to the Senator from Colorado (Mr. DOMINICK).

Mr. DOMINICK. Mr. President, I have been listening to the colloquy and the speech with great interest, and I have some problems. I want to ask the Senator from Connecticut a few questions because of those problems.

We have a situation in my State in which we had a school board in Denver which was 5 to 2, in a nonpartisan election, but, we will say, were probably on the Senator's team as far as the political end was concerned. A school board regulation was adopted last spring which provided that, starting in September, the schools in Denver would be assigned quotas of students on the basis of race, and they would be bused back and forth on account of the quota system which they set up.

We then had a school board election. Two people ran against two members on the then existing school board contending there should not be forced busing. The two nonbusing candidates won 4 to 1 in our Spanish area. They ran even or won by a slight majority in our Negro area. They ran 2 to 1 in the white area. Overall, their winning margin was 2 to 1.

The new school board changed the regulation, because the board then was 4 to 3 against forced busing. They dropped mandatory busing but permitted voluntary busing. Subsequently, individuals advocating mandatory busing went before the Federal district court and obtained a preliminary injunction against the new voluntary busing system. The effect was to restore the mandatory busing of the old board. In turn, this matter was appealed to the 10th circuit court, where the ruling of the district judge was reversed.

The proponents for forced busing then took the matter to the Supreme Court. A single Justice overturned the 10th circuit court and sent it back to the district court; and a temporary injunction is now in force against the existing school board and in favor of mandatory busing.

That is a synopsis of the legal situation in Denver right now. A full trial is expected shortly.

In our State we have probably the second strongest fair housing law in the country. It may be the first. People are permitted to buy and rent wherever their economic condition and desires permit them to do so. Whatever school racial mix has occurred has come about because of the desires of the people to move into certain areas. As a matter of fact, blacks moved into one of our better school districts when the law went into effect. They moved into the area in volume. It is a great area for them. It is a marvelous area. They do a great job. They keep it up, and it is a fine place. But by virtue of this fact, the schools became overwhelmingly black.

Now the theory is that, simply because they are black, even though the same facilities are there and many of the same teachers are there, the school does not have equality.

It seems to me that when there is a fair housing law which permits people, in a reasonable manner, whenever they have the economic means and desires, to move where they want to, we have solved the basic problem of whether or not there has been intentional segregation as far as schools are concerned.

Second, it would seem to me that the Federal Government, in the existing bill, has said quite clearly that it does not want any of the funds authorized to be used to require busing on account of race. Section 422 states that no provision of law shall be construed to require the assignment or transportation of students in order to overcome racial imbalance—words to that effect.

If we should adopt amendment No. 463, it seems to me, we are in fact—and this is the question I want to ask—largely extending the existing law by inclusion of the last words "without regard to the origin or cause of such segregation." It would seem to me these words inject the Federal branch of the Government into every State where there was in fact de facto segregation in the school system. Would the Senator say that is correct?

Mr. RIBICOFF. Yes. My contention is that if we have a policy based on de jure segregation in the South, the North should not be excluded from the same policy because there is de facto, instead of de jure, segregation there.

I would imagine that in many areas of the South where there is now de jure segregation, once de jure segregation was out of the way it would become actually de facto segregation, as the Senator has described in Colorado, because I think what has happened in the South and what is happening all over the country is a resegregation of the races, which is a tragedy, but which nevertheless has taken place.

It has taken place in Colorado, in Denver. I think it has taken place in Atlanta. It has taken place in Hartford. It has taken place all over the Nation. This is one of the bothersome features to me: That we think we are going to solve this problem merely by the passing of a law. What we have to do is address ourselves to the entire field of education, determine just what we are going to do, and face up to it. I suggest that we in the North should not exclude ourselves from the rules and regulations applied to the South by saying we are de facto and they are de jure.

Mr. DOMINICK. I agree that the rules ought to be applied uniformly, not just in certain areas. I have felt for a long time that this was desperately unfair in the sense of active enforcement in de jure situations.

As I see the problem, if that were all that this did, it would be all right; but these specific words of amendment No. 483 attempt to substantially increase the power of the Federal Government to move into the South as well as the North, the East as well as the West—for the first time on a de facto basis. That, I think, is something that could further irritate an already very difficult situation in the South as well as elsewhere.

I find real problems on that issue. I just think that if the distinguished Senator from Mississippi, for whom I have such vast respect, would strike out of his amendment those last words "without regard to the origin or cause of such segregation," I would be happy to vote with him.

Mr. RIBICOFF. The Senator from Mississippi will have to answer that for himself. I am happy to yield now to the Senator from New York.

Mr. JAVITS. Mr. President, I want to be sure we all understand each other.

The pending amendment relates to so-called freedom of choice, and the New York State statute on busing. Am I clear

that the Senator from Connecticut intends to vote for that?

Mr. RIBICOFF. That is amendment 481?

Mr. JAVITS. Right.

Mr. RIBICOFF. I have stated that I would vote against amendment 481, but would vote for amendment 463.

Mr. JAVITS. The reason I ask the Senator that is that the timing of his speech, if it does have such a quality of relevancy and impact as some Senators think, coming before the amendment he is going to vote against, could create confusion as to what he is for and what he is against. Therefore, I think it is better to make it clear, and I am sure the Senator joins me in that.

Mr. RIBICOFF. May I say that, to me, the issue before the Senate today is so vast and so important that, to my mind, it transcends both amendments 481 and 463. I wanted to put the whole problem in focus and perspective, which I thing it is very important to do right now, because it is my understanding that both amendment 481 and amendment 463 will be voted on either today or tomorrow.

Mr. JAVITS. Right. I do not know that that is the case, but in any case, we have it clear.

The second question I should like to ask the Senator is this: Is it not a fact that this bill already says exactly what the Senator from Mississippi (Mr. STENNIS) wishes to say, without adding the words which the Senator from Colorado, astute lawyer that he is, has properly picked up, "without reference to the origin of the segregation?"

I call the Senator's attention to page 150, section 421(c) of the bill, which reads:

> All such rules, regulations, guidelines, interpretations, or orders shall be uniformly applied and enforced throughout the fifty States.

Mr. RIBICOFF. Well, as to whether Senator STENNIS' amendment is a nullity, I would be pleased to yield to the Senator from Mississippi to give the answer to that.

Mr. JAVITS. I say, aside from the words which Senator DOMINICK picked up, which I think make as much of a difference in what we are going to accomplish as the reason for the Senator's voting against the pending amendment, to wit, the words "without regard to the origin or cause of such segregation"—other than that, it includes nothing, because we have already covered uniformity of enforcement. I just wanted to be sure the Senator from Connecticut was aware of that.

Now, if I may also ask the Senator another question, as to another point of fact, is the Senator aware of the fact that in a recent appropriation bill, to wit the Labor-HEW Appropriation Act of 1969, which we passed early in the year, we required—I was then a member of the Appropriations Committee myself—that an equal number of operatives be assigned North and South, in order to see that the law was enforced, and the Secretary of HEW has actually reported that he has assigned an equal number of operatives, and has accounted to Congress for the number of cases he is investigating, which run into the hundreds in the North?

In short, I happen to be acquainted with the finite details and, while I do not want to impose upon the Senator, all I am trying to qualify for is that the Senator more or less implied that there may be a lack of sympathy with the problems being faced, or some effort to apply a different kind of rule.

As a matter of fact, I said a while ago, and I repeat, we are moving, obviously, slowly, but within the path that we take at least let us do it to the full. So far all we have done, really, is to prohibit de jure segregation. Other than that, we have not done anything. Everybody is afraid, in the South as well as the North, and I am ready to agree with the Senator at once that we are apparently decades behind what we ought to be doing as far as our minorities are concerned.

I agree with that, but I do not want to let that confuse the issue, so that, when we try to lift some of these hands somewhere, we will get into such broad, high-level applications that it disables us everywhere.

I noticed that most of the Senator's speech was taken up with covering problems in the suburbs, et cetera. I agree with the Senator, but what has that to do with a provision in an amendment which could nullify hundreds of court proceedings which have a chance to advance our common goals, no matter where they strike North or South?

Mr. RIBICOFF. Mr. President, I was trying to call attention to a basic problem that exists in this country, and I was trying to point out that what we are dealing with is a question of racism, and the problem of segregation in the schools, due to a segregated society—a segregated society which is just as segregated in the North as in the South. And may I say, in all due respect to the Senator from New York, that within 12 blocks of where the Senator lives, one could find school conditions that, on every basis, would be even worse than any place in the South. The situation in New York is so bad that it points up the problem that we are raising, that it is not a question of just Mississippi, but the people of New York have to search their souls as much as the people of Mississippi. Mississippi is de jure and New York is de facto, but it is just as bad in New York de facto as it is in Mississippi de jure.

Mr. JAVITS. Mr. President, will the Senator yield to me at that point?

Mr. RIBICOFF. I yield.

Mr. JAVITS. All the Senator is saying, and that is absolutely true, is that it is just as bad de facto as it is de jure. I think I know what is within 12 blocks of my home as well as the Senator does. But I say we should not be dissuaded from attacking de jure because de facto is just as bad. I want to attack both, but I do not want to be carried off from attacking de jure because of this broad laying on of hands, that we are all in trouble and everything is bad.

I want to attack both situations. I think we are going to compromise, if we adopt Senator STENNIS' amendment, with all love and respect to him, the effort to deal with de jure segregation.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. RIBICOFF. May I say to the Senator from New York, talking on my own time, I just do not accept that at all, because I do not think it is enough for us to be on this floor, at a point 2,000 miles away, trying to solve all the problems 2,000 miles away, when we are unwilling to solve the problems in our own backyards.

The statistics for the city of New York are as bad as any statistics you can find on the State of Mississippi. So it is all right for the Senator to say, "We will attack de jure," but I say that if we are honest with ourselves, we will attack de facto in Hartford and New York as well as de jure in Mississippi. This is the point I am trying to make. If we do not do that, we are never going to solve the problem of education in a racist society.

Mr. JAVITS. Will the Senator yield one moment further?

Mr. RIBICOFF. I yield.

Mr. JAVITS. I thoroughly agree with the Senator, but I cannot momentarily, for reasons of the Constitution and law, attack de facto as hard as I would like. That should not stop us from dealing with de jure segregation where it exists. That is all I am saying. I do not disagree with the Senator, but I am just warning against—and the Senator is illustrating it in his own prospective vote—getting off the idea of dealing with this issue wherever we can find it, and wherever we can get at it, because we cannot deal with it all at this given moment in the way we would like.

This may be a fundamental difference in philosophy between us, but I do not think any Senator from the South will complain—if he does I do not think it is justified—against me on the ground that I have misstated the law, or tried to disguise the facts, or to whitewash my own area of the world.

I consciously have never endeavored to do that. But I have committed myself, as a human being and as a Senator, to try to deal with this subject wherever we could get hold of it. That is all I say. I do not differ with the Senator. I only say that I do not think we should stay our hands in trying to deal with this issue wherever we can deal with it, because we cannot deal with it all in a moment of time.

Mr. RIBICOFF. All I am asking the Senator to do is to project himself into the position of our colleagues from the South. The Senator gets up and says, "I want to deal with the problem where it is, and that is de jure." That is all very well and good, because when he does it on a de jure basis, he is dealing with the South.

I am saying that if we are asking to deal with this problem de jure, we have an obligation to say it is just as bad where we are, where it is de facto. What I am asking the Senator to do is to go beyond the position where we now are and deal with the problem in New York and Connecticut as well as Mississippi and Arkansas. This is the point I am trying to make. If we do not, we are again going to be in the situation where we do not solve the problem; and where

we have this anger and differences between the North and the South; and we should not have it.

I think the time has come for the Senator from New York and the Senator from Connecticut to be able to sit down with the Senator from Georgia and the Senator from Mississippi and try to bring our experience, our wisdom, and our philosophy to bear on these basic problems; because if we do not, we are going to have this problem deeper and deeper and deeper.

As the Senator from Georgia (Mr. TALMADGE) pointed out, the front page stories in the New York Times dealing with New York and the country indicate the depth and extent of these problems. My feeling is that until we reach the stage where we are willing to look at it de facto, we will not solve it. We can write editorials and make speeches and say, "Let us solve it in the South. We are going to solve it in the South, but nothing is going to happen in the North." When we stand up and say, "Yes, it is bad in the South, and we want to correct it. But it is bad in the North, and we want to correct it"—when we reach that stage, the shoe will really pinch; and northerners and southerners and the President of the United States and Congress will sit down and say, "What are we driving at?"

We are trying to eliminate a racist society, and let us not make our innocent children the pawns for our ideas and theories. We want to save our children, not destroy them.

We do not want to force our children into a system. We want to change the system to make it work for children, not to make our children work for the system. Until we face up to the situation of segregation in the North, we are not going to solve it.

To me amendment No. 481 is not important, amendment No. 463 is not important, and this bill is not important. What is important is that the Senate of the United States understand that we have a grave national crisis, as grave as any we have had in our history; and unless we solve that crisis, we are going to be in serious trouble. That is why I took the floor today to try to bring to the attention of this body this basic national problem. I think it is unfair for us in the North to try to tell the South what to do, when we are unwilling to have the same thing done in the North.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield

Mr. JAVITS. I cannot accept the fact that I am trying to impose something on the South without including the North. I will tell the Senator why.

I, myself, have done something which not too many Senators will do. I have said that the New York State law is wrong, and I am against it, and I will do my best to undo it. I have been against, whereas most of the protagonists of the opposition to the bills regarding de jure segregation have been for inhibiting the Federal Government's funds in any way from being used to break this matrix of poverty and minorities and schooling and housing.

It should be remembered that this very provision preventing anything from being done about racial imbalance has always been written in on the floor of the Senate by those who now espouse a position of, "Let's do it equally all over the country." It is they who have inhibited the ability of Federal funds for education to be used to make the very improvements that the Senator and I both want.

I beg any Member to call me to task if I am ever found lacking in being equally critical, equally searching, with respect to the North as I am to the South.

But I reserve the right, as a Senator, to act upon any of those matters whenever it is within my reach and competence or to try to defend against something which I think will compromise the effort to get justice in either place.

Mr. RIBICOFF. The fact that the Senators from the South fought the civil rights bills and what we sought to accomplish in civil rights in the past is meaningless, so far as I am concerned; we should not try to solve the problems of the future on the basis of a sense of revenge.

There is great change in the thinking in the South. I think there is a realization that there are changes in this country. I sense, in talking with my colleagues from the South, that they recognize that changes are taking place, and they realize that this country has to move on.

There is much wisdom, much experience, and much deep judgment on the floor of the Senate. The Senator sees it, and I see it. It is only when all of us are going to exercise that wisdom, coolly and calmly, without pointing fingers at one another, that we are going to solve the problem. We do not have too much time in which to solve it. When we have a school system ready to blow up across this Nation, when teachers have to be escorted to school by police, and when students are fighting one another in the halls and the classrooms, we have a civilization in disintegration.

Every Senator in this Chamber loves this Nation and has the commonsense to realize when a nation is in the process of decay and disintegration. If 10-, 12-, 14-, and 15-year-old boys and girls are fighting each other with knives and guns in classrooms, what are they going to do 5 or 10 years from now? Is our Nation going to be an armed camp? Are we going to start an armed camp with children, let alone adults? What will be the future for our country?

What I am trying to point out is the basic philosophical problem that faces us, not the question of amendment 481 and amendment 463. I am glad for amendments 481 and 463, because, as I pointed out, Senator STENNIS has done a great service to the country and a great service to our northern liberals. He has shown up our hypocrisy. I think Senator STENNIS is owed thanks from all of us. It is only if we face up to the hypocrisy and eliminate and correct it that we can start sitting down and correcting the basic problem, not just amendments 481 and 463. Amendments 481 and 463 could not be more meaningless than they are today. They are not going to solve the problem. Only when we look at the big picture and the big issue will we be able to solve the problem.

I yield to the Senator from Georgia.

Mr. RUSSELL. I wish to congratulate the distinguished Senator from Connecticut on one of the most courageous and forthright speeches I have heard since I became a Member of this body, and I know the decision to make this speech must have been difficult. But this is a speech that is in the national interest, and it will bear more fruit 20 years from now than it will today. It was not only a courageous speech but also a well informed speech.

I do want to advert briefly to the discussion about de jure and de facto segregation. As a practical matter, there cannot be any de jure segregation in this country—that means by law or with law. Since the handing down of the decision of Brown against Board of Education in 1954, segregation by law has been invalid, and, therefore, there can be no de jure segregation in this country.

As has been said, there are few men in this body who are better qualified to deal with this subject objectively than the distinguished Senator from Connecticut.

Not only has he served as Governor of the great State of Connecticut, as a Member of the House of Representatives, and as Secretary of Health, Education, and Welfare, which is directly involved in this subject, but he also has served on committees of this body which have conducted lengthy hearings on closely related matters. Thus, he deserves the attention of Senators when he speaks.

It made my heart feel good, because this is the first time that a so-called northern liberal has risen here to ask for fairness.

This is the first time, in dealing with this peculiar question of race, that someone has made an appeal on the basis that the South should not be treated as conquered provinces, but that the South is entitled to the same treatment that is accorded other sections of the country.

For that reason, I particularly congratulate the Senator from Connecticut.

Mr. President, this problem is getting more acute throughout the Nation. I want to say, with some pride, that although we have a high proportion of colored citizens in my State, the problem has been handled very well in Georgia. We have not had the difficulties some other sections of the Nation have had and we have proceeded to integrate our schools.

Our people are working on this subject exceedingly hard. They are devoting a great deal of time, energy, prayer, and effort to it. I know that the change is being made.

The only thing that I could really ask on the floor of the Senate today is that we be treated as others would like to be treated under the same circumstances.

I have noticed in the course of my years of service in the Senate that where there is a problem that is unique to one section of the country, it is solved much more quickly, much more completely, much more readily, and much more totally by the man who does not have that problem

at all in the section of the country from which he comes.

That is certainly true of this question. People who do not have that problem at all in their section of the country can solve it at the snap of a finger.

But the Senator from Connecticut is more honest than this. He has made a momentous speech. He has made a true speech. He has made a speech that I think is fair.

There are some portions of it with which I might not be in total agreement, but I do say that the speech bears the stamp of courage that I was afraid had long since departed from these Halls.

VISIT TO THE SENATE BY A DELEGATION FROM THE FRENCH NATIONAL ASSEMBLY

Mr. YARBOROUGH. Mr. President, on behalf of the distinguished senior Senator from Alabama (Mr. SPARKMAN), chairman of the Subcommittee for European Affairs of the Committee on Foreign Relations, it is my privilege to introduce four distinguished parliamentarians from the Republic of France, who are members of the French National Assembly.

They are Alain Peyrefitte, Minister of National Education; Roger Ribadeau-Dumas, Deputy of Drome to the National Assembly; Pierre Buron, Deputy of Mayenne to the National Assembly; and Claude Guichard, Deputy of Dordogne to the National Assembly.

I should like at this time to ask our distinguished guests to rise and be greeted by the Senate.

[Applause, Senators rising.]

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that biographical sketches on these four distinguished guests be printed in the RECORD.

There being no objection, the biographical sketches were ordered to be printed in the RECORD, as follows:

BIOGRAPHICAL SKETCHES

ALAIN PEYREFITTE

Deputy of "Seine-et-Marne" to the National Assembly (Union of Democrats for the Republic), Chairman of the Committee for Cultural Affairs, Family and Welfare.

Born on August 26, 1925, Mr. Peyrefitte is a diplomat and a writer. He is a former student of the "Ecole Normale Supérieure" and the "Ecole Nationale d'Administration". He has been elected to the National Assembly in 1958 and reelected in 1962, 1967 and 1968. He has been several times a member of Government, first as State Secretary assistant to the Prime Minister, in charge of Information (1962), then as Minister delegate to the Prime Minister, in charge of Repatriated persons (1962), Minister of Information (1962–1966), and Minister of National Education (1967).

Mr. Peyrefitte is the Mayor of Provins and a member of the "Seine-et-Marne" General Council.

ROGER RIBADEAU-DUMAS

Deputy of "Drome" to the National Assembly (Union of Democrats for the Republic).

Born on July 15, 1910, Mr. Ribadeau-Dumas, after obtaining degrees in law and economics, made a business career in banking and then in the movie-making industry. A member of the National Assembly since 1962, he has been reelected in 1967 and 1968.

He was a Vice-chairman of the Committee for Cultural Affairs, Family and Welfare in 1965–1967.

PIERRE BURON

Deputy of "Mayenne" to the National Assembly (Union of Democrats for the Republic).

Born on December 15, 1921, Mr. Buron is a professor of Philosophy. Elected to the National Assembly in 1967 he has been reelected in 1968.

CLAUDE GUICHARD

Deputy of "Dordogne" to the National Assembly (Independent Republican).

Born on November 11, 1928, Mr. Guichard is a professor of Medicine and Pharmacology. A member of the National Assembly since 1967, he has been reelected in 1968.

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1969

The Senate continued with the consideration of the bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes.

Mr. MONDALE. Mr. President, I think it is terribly important that the challenge which the Senator from Connecticut poses be taken seriously by every Member of this body, whether he represents a Southern or a Northern State.

We all have deep and compelling racial problems. None of us can deny that. Those problems largely remain unsolved. To a large extent, they are getting worse. We cannot deny that.

A few years ago we were challenged in a similar way by the South on the fair housing statute.

The PRESIDING OFFICER (Mr. DOLE in the chair). The Senator from Minnesota will suspend. The Senate is not in order. The Senate will please be in order.

The Senator from Minnesota may proceed.

Mr. MONDALE. Mr. President, at that time, a distinguished southerner stood up and said that he intended to propose a fair housing amendment to the 1968 Civil Rights Act. He said that northern Senators were so hypocritical that if a fair housing amendment dealing with the problems of the North were included they would vote against the Civil Rights Act. We accepted that challenge and proposed a strong fair housing amendment. Surprisingly, we did not receive the support from the South which had been threatened. Five successive cloture votes were needed to pass the amendment that dealt with the North and fair housing, which is at the core of de facto segregation. Thus, there is evidence that the Senate has accepted the fact that this is a national problem and is not just a regional one. Our willingness to deal with this problem in our own communities and not just in communities in the South brings me to my question about amendment No. 463, which enjoys the support of the Senator from Connecticut.

What bothers me about the amendment is that while it declares a policy of opposition to de facto segregation, it does nothing about it. What would the Commissioner of the Office of Education or the Secretary of Health, Education, and Welfare do if this amendment were adopted? Does it require him to pursue a policy of busing? How does he determine where de facto segregation exists and where it does not? Would it require new desegregation guidelines including racial percentages and what percentage would be pursued? Does the Commissioner include the schools in the suburbs in solutions to the problems of the cities? Does the amendment require him to pursue vigorous enforcement of the fair housing statute, or not? Does this amendment really require any movement against de facto desegregation? I am afraid that all this amounts to is a political gesture in opposition to de facto segregation. The amendment itself does nothing at all except possibly confuse the effort against the de jure segregation.

Would the Senator from Connecticut respond to that?

Mr. RIBICOFF. As I read and understand the amendment of the Senator from Mississippi (No. 463), all he is asking is that the same policy, the same guidelines, and the same activities be used against de facto segregation as against de jure segregation. That is my understanding of amendment No. 463.

As I understand it, when HEW and the courts go into de jure segregation, they take a plan and come up with a plan or a ruling, and that is the ruling or the plan that they expect to be followed. It is my understanding from what the Senator from Mississippi is trying to achieve in amendment No. 463, that if this policy applies to de jure segregation, we want the same policy to apply nationwide to de facto segregation.

Do I misinterpret the Senator from Mississippi's point on amendment No. 463?

Mr. STENNIS. The Senator has made a correct interpretation here. Amendment No. 463 relates to the money grants in the Education Act. It refers to title VI of the Civil Rights Act and also to section 182 of the Elementary and Secondary Education Amendments of 1966.

With reference to the guidelines, the guidelines and criteria relate to the money. We cannot get the money until HEW has approved it. That is the situation in this amendment. As it says "without regard to origin or cause of such segregation."

That takes de jure so-called and de facto so-called and treats them all alike in suburbia, in the rural areas, in the ghettoes—whatever it is. There is no distinction.

Mr. RIBICOFF. That was my understanding of amendment No. 463.

Mr. MONDALE. Mr. President, with all deference to that answer, let me say that I do not think it is responsive to the question. If the amendment were to be agreed to, I assert that the Commissioner of Education, the Secretary of HEW, the Attorney General, and the Secretary of the Department of Housing and Urban Development, would not have the slightest idea what to do about it.

For example, section 401 of the Civil Rights Act of 1964, which is not affected by the amendment, provides that:

Desegregation shall not mean the assignment of students to public schools in order to overcome racial imbalance.

And section 804 of the Elementary and Secondary Education Act states that nothing in this act shall be construed "to require the assignment or transportation of students or teachers in order to overcome racial imbalance."

In other words, this amendment would retain provisions in present law that prohibit funds to assist in busing in a segregated situation arising from a living pattern. That would continue. In other words, this amendment would retain provisions prohibiting busing which, to my knowledge, is perhaps the best known way to overcome de facto segregation. This amendment would declare a policy against de facto segregation but not remove prohibitions against doing anything to implement it.

It is simply not the same task to eliminate a problem that exists because of a living pattern, as it is to deal with the problem in the school system that exists because of separating children not on the basis of geography but on the basis of color.

Mr. RIBICOFF. Mr. President, I may say to my friend, the Senator from Minnesota, that what takes place in the South in de jure segregation is exactly the same as the situation that takes place in the North in de facto segregation.

One can look at the figures. It is exactly the same thing that takes place, because it is not due to the segregation of the schools, but is due to the segregation of the population. We are separating blacks and whites. We have de jure segregation in the South and de facto segregation in the North. But the schools are just as black in the North as they are in the South.

What I am trying to say and what the Senator from Mississippi is saying is that if we say it is wrong to do it in the South, we ought to say it is just as wrong to do it in the North.

Let us be honest with ourselves. Whether it is de jure or de facto segregation, it is segregation.

I want them all treated the same way. Let us not have any illusions that then the whites in the North will start to worry about solving the problem. Our problem is that we have a racist society. We are just as racist in the North as they are in the South.

One can go anywhere in this country and see the situation that prevails. But we hide behind the fact that ours is de facto segregation instead of de jure.

I do not want to have either of the two.

Mr. MONDALE. Mr. President, as I said earlier, I agree entirely with the Senator from Connecticut. There is a serious problem in the North and something should be done about it. But I point out that the amendment offered by the Senator from Mississippi does absolutely nothing. It implies that something will be done. But it does not repeal the provision in the existing statute which prohibits busing to overcome racial imbalance which is one of the few short-run ways I know of that would do anything about de facto segregation in the schools.

This amendment appears to do something. It perhaps satisfies our feelings of guilt about hypocrisy. And we are hypocritical at times. But I do not think that a political slogan will suffice.

If we want to deal with the situation in the North, let us not kid ourselves that this does anything about the problem of de facto segregation. It may indeed simply weaken the effort to do anything about de jure segregation.

Mr. RIBICOFF. This is the argument that has been used: That this is a ploy by the southerners to make sure that we eliminate any action on de jure segregation. But I am going to insist that we keep our eye on the basic problem, that if we are going to say, "You are going to eliminate all de jure segregation in the South," then I think that we should do the same thing in the North with respect to de facto segregation to make sure we are not going to use the hard hand in the South and let the northerners escape their responsibility.

I know the argument is used, "If you do this, it will slow down integration in the South." I will fight to eliminate it in the South. But we should be willing to stand on this floor and in our own States and say that what we want for the South, we want for all of the States in the North, too.

Mr. STENNIS. Mr. President, in a speech on October 16, I think, of last year, I pointed out some facts. There were thousands and thousands of cards or questionnaires of compliance sent out to the schools of the North. And they came back all signed up saying, "Yes, we are under compliance." And they were all put in the drawer. I think there were only 16 to 18 at that time that had ever been gone into. It was a very small number anyway. There was a presumption of innocence. They said they were in compliance. The presumption of innocence applied to them, whereas in the South virtually all of the cards were challenged by the HEW, and they were required to file another statement, an additional card, 441–B, I believe it was. They were told, "Yes, you are under the dual system. You have de jure segregation. There is a presumption of guilt against you."

That is where they started the ball rolling for negotiations to get the money, and that has been going on for years.

All we are saying here is that every district in the North, so far as I am able to tell—there may be 1, 2, 3, 4, or 5 exceptions, in small districts—all of those districts have been drawing all this money all this time. And they never have to prove anything. There is a presumption of innocence in their favor because they have de facto segregation, whereas in the South the presumption is that we are guilty. We have been challenged. In order to get that money, they had to agree with HEW to do certain things that could not be done without busing. And they got around that provision of the law and said, "The provision about busing applies to de facto segregation, but it does not prohibit us from proceeding against you because you are unlawful. There is a presumption of guilt on your doorstep."

That has been going on and on.

The pending amendment provides that it is the policy of the United States that the guidelines, and criteria established, and so forth, shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race in the schools of the local education agency of any State.

If we stop there, we have a repetition of what has been going on and on all the time. But these words add, "without regard to the origin or cause of such segregation." And that is what the Senator's speech is based on. If we take those words out, it has virtually no meaning.

Mr. MONDALE. Will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. MONDALE. I think that the effort by the Senator from Mississippi to underscore and make visible the deep and profound problems arising out of de facto segregation in the North is well taken and it deserves a responsible and effective response by the Congress. However, that is exactly where the Senator's amendment is most deficient. It does nothing about de facto segregation at all. The problems of de facto segregation and de jure segregation involve different issues. De facto segregation involves elimination of dual school systems; one is white and one is black. De jure segregation involves different living patterns. The result may be the same but it involves very different remedies. The only short run remedy I have heard for de facto segregation is a program of busing, which the Senator from Mississippi opposes and which I understand the Senator from Connecticut opposes, and which is prohibited by the law in cases of de facto segregation. So we have the sanctimonious proposition against de facto segregation and we do nothing about it. We will go home and constituents will ask, "Do you mean you are for busing?" We will say, "No, we have already prohibited that. We do not want to get into that."

Mr. RIBICOFF. I am trying to focus the attention of the Senate on the realities of the situation. I know the legal difference between de facto and de jure, but it comes down to the same thing. What I tried to point out in my speech was that basically the problem of schools being segregated is due to the fact that we have a segregated society, and that we are not going to solve the problem of the schools by busing. Who are we, whose faces are white, to think that the blacks ought to be bused? Who are we, whose faces are white, who send our children to white schools or private schools, to think that because a person is poor or because a person lives in the ghetto he wants his black child carted 20 miles away? Who are we to think that we can play with the lives of children? I do not think that busing will solve our problems. We are talking about busing children 5 or 10 miles away, taking them outside the ghetto. You are doing more harm and hurt to a child than would be done by letting him remain in a black school with decent teachers and a good curriculum.

What I am trying to do is to focus the attention of the Senate on the realities of the situation and not the theory. I am sick of theories. I have seen too many of them. I am sick of sociologists and educators. It is time to bring good com-

monsense to this problem. I am not going to take the point of view of the "pros." Heaven knows it has not been working. They have come up with one program after another. We have taken their approach and it has not worked. Let us focus our attention on the basic problem and determine what we are going to do for American society and American children, black and white, North and South.

As long as we think the only problem is segregated schools we miss the point. We are talking about a segregated society. We are not going to solve the situation unless we look at the problem. It is not the kids who are racists; it is the adults who are racists. I do not want to make the children innocent pawns. This is what we are doing. We think we can take a group of children, put them in a bus and take them 5 miles away to an atmosphere they do not like and do not know, and then think that we have solved the situation. I am interested in education. That is what I am interested in.

When the country is divided over kids who are 5, 8, 10, 12 years old, and they are brought up with such violence and hatred that they go at each other with knives, and they do not wait to get at each other outside but do it in the lunch rooms, this country is in the process of disintegration. We should not just be arguing the difference between de facto and de jure segregation.

Until we take the faces of the North and put them in this mess we are not going to solve the problem. As long as the North hides in lily-white suburbs and as long as they say this is a Southern problem we are not going to attack the basic problem. The time has come for the North to take a look at itself in the mirror; it is not just the people in the South, in Georgia, Mississippi, and Alabama. It is time for us to solve our problem.

Mr. MONDALE and Mr. FULBRIGHT addressed the Chair.

Mr. RIBICOFF. I yield to the Senator from Minnesota.

Mr. MONDALE. Mr. President, I wholeheartedly endorse what the Senator from Connecticut said. He will recall that in 1968 I spent 2 months on the floor of the Senate going through the longest and most arduous struggle the Senate has ever had on a civil rights bill. We finally adopted a strong national fair housing bill to deal with discrimination in the sale and rental of housing in this country, a problem that clearly struck the North and the South. Unfortunately, we did not have the support of some who support the amendment of the Senator from Mississippi today. But we did pass that measure and it was a problem which applied to the people of the North in their hometowns. The Senate stood up in an unhypocritical way and tried to deal with the basic problem of de facto segregation.

I accept the point which the Senator from Connecticut makes that we must do far more to break up those segregated living patterns than we have done before. I hope we can increase the appropriations for the fair housing enforcement more than we have.

I would ask: What would happen if this amendment were adopted? What would HEW do with it? The Department could not proceed to busing requirements to overcome de facto segregation. That is prohibited under existing law. Then, it would seem we would be passing a meaningless, sanctimonious declaration against the results of residential segregation patterns in the North and doing nothing about it except, possibly, interfering with and confusing the effort to do away with de jure segregation.

Mr. RIBICOFF. The sheer fakery of the educational bills we have passed are only exceeded by the fakery of the housing legislation we passed. We call it fair housing but the fact remains if your skin is black you cannot find housing in the suburbs. You can talk about fair housing, but say what you will, the Negro is stuck in the ghetto. In the last two decades 80 percent of the new jobs created in America have been in the suburbs.

Can the blacks find a place to live in the suburbs? Has the policy done anything to make sure they have places to live in the suburbs? Or has the policy been one of creating new ghettos?

Let us acknowledge the fact that the housing program has been an abysmal failure. It has not done anything to solve any economic, social, or housing problems.

What we are trying to do on the floor is to face up to reality. This is not just words. We can talk about fair housing, but it does not mean anything if there is no housing for blacks to move into—and there are no houses for the blacks to live in. This is a problem we face today.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. FULBRIGHT. Before I ask my question, I would merely like to refer to what the Senator said just prior to the last interruption by the Senator from Minnesota. I think what he said was the most eloquent statement I have heard on what I believe to be the essence of this problem.

I think, as often happens in extemporaneous statements, and the Senator from Connecticut made his statement with great feeling and great force, it was the most eloquent statement I have heard on this subject, and I could not agree more with the sentiment he expressed of what we are trying to achieve and what has not been achieved in the past, and the reasons for it. So I congratulate him on the statement, and I certainly join with him in it.

The point I wish to make is that there has been a continual repetition by the Senator from Minnesota that this does nothing and is an utterly idle gesture. If it is adopted and if the distribution of Federal funds in the North, and throughout the country, takes place in accordance with the same guidelines that have been applied in the South and elsewhere, will it not bring about very substantial changes? These guidelines will be made acceptable and workable to all the northern participants in the program, and most of them will take a different attitude toward this whole problem with regard to society, and not just with regard to the children, and we will cease to make innocent children the pawns and the victims of this whole program.

It seems to me that it is not correct to say that this is an idle gesture. I think very substantial effects will result. I wonder if the Senator will comment on that.

Mr. RIBICOFF. I should say that perhaps the most salutary thing would be to have uniform factors with regard to de facto and de jure segregation in all areas, affecting everyone, whether it is de facto or de jure segregation.

What will happen if that takes place? The President, the Secretary of Health, Education, and Welfare, the Congress, and educators will have to look themselves squarely in the face and into their hearts and recognize that we have a problem and ask themselves what we are going to do about it—North and South. What are we going to do about education?

Those of us who have had experience in education at different levels—and the distinguished Senator from Arkansas has had extensive experience in it—will speak in like manner that our education has been an abysmal failure.

The time has come to look at education in America in the world of the 1970's, which is a different world from the one in the 1930's, 1940's, 1950's, and 1960's. When we start looking at it, let us ask the question of what we are going to do with the authorized amount of $35 billion for the next 4 years so it can be used meaningfully.

My feeling is that a great part of the $35 billion authorized will go down the drain and accomplish nothing if we do not do something constructive. If we are going to spend $35 billion, let us look at the problems of blacks and whites, the young, the teenagers, the college level. If we have $35 billion to spend, let us spend it to reconstitute education and get something for the children—not dropouts, not sex, not dope, not a deteriorated society. What are we going to do about producing teachers who can teach, curriculums that prepare children for work, curriculums that prepare children for higher education if they want it, curriculums that prepare children for administration? Let us look at the whole problem of education. That is what I am pleading for. We are not going to get it as long as northerners think, "It is those guys in the South who are playing fast and loose with segregation," and think they can look at it with righteousness because there is de jure segregation there and they should not get away with it. But the northerners get away with it. They run away from it. They do not face it. They see it on the commuter trains as they ride through the slums of Harlem. It is a terrible thing, but they read their newspapers when they go through those areas. They skip unpleasant things when they read their newspapers or see it on television. The time will come when the guidelines begin to pinch North and South, when we are going to make our-

selves take a good look at a tough problem.

Mr. FULBRIGHT. It seems to me that is a complete answer to the criticism of the Senator from Minnesota that this does nothing or accomplishes nothing. Of course, we cannot write into one bill a change in attitudes of a great community such as the United States, an attitude of people—particularly adults, which is the root problem—on a problem which has accumulated over many years, and centuries, even. It is not going to be eradicated overnight. But I think the change in attitude which will come about in the North, as the Senator has said, will be an extremely important result.

It is utterly without foundation for the Senator from Minnesota to say this proposal does not do anything. It does a great deal, and it is a great step.

If the Senator will allow me to say so, I voted against many of the Civil Rights Acts. However, I now accept them as the law of the land, however unwise I think it was to approach the problem as it was approached.

I can only say that, back in the 1940's, one of the first bills I ever cosponsored in the Senate was a Federal aid to education bill, when it was considered, in many parts of the South, to be politically dangerous because it was thought that it would give the Federal Government an opportunity to interfere with local control of the schools—which it has. I tried to minimize that effect at the time. But I and many other Senators believed it was the proper approach to the problem and put a greatly increased emphasis on the quality of education.

I do not believe the Senator from Connecticut was a Member of the Senate the time. I think he was then Governor of Connecticut. Some very wise legislation was proposed then, authorizing a widespread and very far-reaching program for Federal aid to elementary and secondary education. That was as far back as 1947. It passed the Senate twice, but failed in the House or in a committee of the House. I shall not go into that at this time. But the approach then was that it was a better way to bring about an adjustment, peacefully and effectively, between the races and an improvement in the quality of education, than the previous approach. I do not wish to rehash that. I think most of the southerners who opposed some of those bills now accept them as the law of the land.

What we want to do now is to make it work. As I understand the Senator from Connecticut, that is what he wants to do. He wants to forget the sociological theories and programs; he wants to make it work. He wants to create an effective educational system.

That is what I want to accomplish. That is what I think the Senator from Mississippi wants. Coming from where he does, and having said what he has, I think the Senator from Connecticut has rendered a very great service. Now it will be respectable for other Senators, Representatives, Governors, and officials in the North, in my opinion, to take this objective attitude and begin to do something about the quality of the schools and schoolteachers. I do not think there is any way to make any improvement in the whole problem until we do that.

I congratulate the Senator. I shall support him, of course. I think we are now making progress in an area which has been largely preoccupied by theories which have not been consistent with human nature and which have not been effective.

Several Senators addressed the Chair.

Mr. RIBICOFF. I yield first to the Senator from Minnesota. I shall be happy to yield to the Senator from Florida next.

Mr. MONDALE. Mr. President, I think this colloquy underscores the fact that the pending amendment does nothing at all to affect de facto segregation. It does not in any way amend or repeal the existing provisions found in section 401 of the Civil Rights Act of 1964 and section 809 of the Elementary and Secondary Education Act which prohibit desegregation action to overcome racial imbalance. That is still in the law. So busing, as a remedy, has been thrown out.

We are also told that fair housing is not regarded as a very fruitful way of doing anything about de facto segregation. I must say it is difficult to imagine what could follow, then, from the adoption of amendment No. 463. The problem of de jure segregation is a specific problem. It involves the establishment of a dual school system within a single school district, which separates children on the basis of race. The desegregation guidelines require ending the dual system, and setting up a unitary system so that children go to school on the basis of a single school district. There is no requirement concerning racial percentages.

De facto segregation is an entirely different thing. In it we are dealing with a unitary system. We are dealing with percentages of race in a single school, as distinguished from a larger school district. It is an entirely different problem, one that desperately needs to be solved, but this amendment does nothing whatsoever about it.

Indeed, in my judgment, this amendment, by establishing two very contradictory desegregation requirements in the Federal statutes, would produce an ambiguous desegregation policy, at best. At worst, it might produce an unenforceable one. I am hopeful that we can take such proposals as those offered by the Senator from New Jersey (Mr. CASE), and that the Subcommittee on Education or the Committee on the Judiciary, whichever one would have jurisdiction—I am not sure which would—could sit down, in this session of Congress, and come up with a provision that in fact provides an intelligent, strong, effective response to de facto segregation in the North. Then we would be accepting the challenge of the Senator from Mississippi and doing something meaningful.

I am afraid this is a hypocritical gesture that would mean nothing at all in response to the real problem of de facto segregation in the North. Instead, under the guise of uniformity, I fear it would weaken efforts by prohibiting the application of desegregation guidelines in de jure situations because they are now prohibited in de facto situations.

Mr. HOLLAND. Mr. President, will the Senator from Connecticut yield?

Mr. RIBICOFF. I yield to the Senator from Florida.

Mr. HOLLAND. First, I congratulate the Senator from Connecticut. I appreciate the contribution he has made. It has taken courage to do it, and he has done it in what I would call a very fine and noble way.

Second, the Senator from Minnesota could not be more mistaken in what he has said. He has intimated that he thinks the whole South is a rural area. He thinks we do not have cities in the South. He thinks we do not have residential patterns in Jacksonville, Memphis, New Orleans, and Louisville exactly like the residential patterns in Hartford and other northern cities. In fact, we have them, and we have had to meet the patterns prescribed by HEW and the courts; and in fact HEW has been a great deal more severe than the courts have, in my observation.

We have had to meet them, and we are meeting them in the same way that we have, and have been required to, just as in the problem cases that can be met in Hartford and other places in the North. There is no distinction between the cities of the South and the cities of the North in the matter of this residential fact.

I think of the city of Jacksonville, with about 120,000 Negro citizens, most of them good people, too, and they live in one area of the city. I doubt if there is any different situation in the city of Hartford, and I think the two cities are about the same size.

I think it is completely unsound to say that the amendment offered by the Senator from Mississippi offers no remedy, because it has been shown that under existing law there have been remedies applied in all areas of the South, and the thing that disturbs me is that there has been no effort whatever to apply those same remedies in other parts of the Nation.

One more thing I wanted to say is that the Senator from Minnesota overlooks the fact that the contribution of the Federal Government, under title 6, unless there is a finding of deliberate segregation practice, may be available to the schools in the ghettos to raise very greatly the level of instruction there.

I remember that the distinguished Dr. Conant, the president of one of the greatest universities in the North, in a book on this subject 3 or 4 years ago, said it would be impracticable entirely to bus students out of areas of preponderantly Negro residents in the great cities of the North, but that by all means what was needed was more money to build up the standard of teaching. That can happen under the amendment offered by the Senator from Mississippi.

Mr. President, one further little comment, if I may make it. One of the things that the Senator from Connecticut said that brought back something in my memory was when he said that students who come without good shoes and without good clothes, in tattered raiment, in the presence of suburban children who are well clothed and with good shoes and well-fed and all that, simply have a feel-

ing of inferiority that does not operate to keep them in the schools at all, but to the contrary is conducive to their leaving and quitting school.

I was reminded that I was once told by one of the biographers of the great John Wesley that the two Wesley brothers came, when they were still members of the Anglican Church, to Savannah when it was a small city, but it had a poor area, and John Wesley promptly set up a school out in that poor area, for the children there.

He soon found that many of them could not wear shoes, because their people did not have the money to buy them, and they came with overalls, or the equivalent thereof. He found that because of the fact that a few did have shoes and were well clothed they were inclined to look down their noses at the poor, and the poor quit school.

Wesley's biographer said that Wesley pondered about it, and finally solved it in this way: One day he showed up, the teacher, in overalls and barefooted; and he did not have any trouble from then on getting the children back in school.

It is a fact, as the Senator has stated, that when you try to mix the poor from the ghettos with the well-to-do from the suburbs, you will have exactly the problem that the Senator has mentioned.

I think he has made many contributions, not just one, by his speech. I congratulate him and I take off my hat to what he has done here today.

Several Senators addressed the Chair.

Mr. RIBICOFF. I yield to the Senator from Rhode Island.

Mr. PELL. I requested that the Senator yield so that I might make a brief comment on one of the statements of the Senator from Minnesota.

I agree with the Senator that hearings should be held in connection with segregation in schools, which certainly exists as is shown by the Coleman report, and on the whole effect of segregation, no matter whether de jure or de facto.

But I would further hope that such hearings would be conducted under the auspices of the Committee on the Judiciary, as a matter of civil rights. As chairman of the Subcommittee on Education, I should like to continue concentrating on the problems of education in general. I realize that I may not succeed in this request, because of the very nature of the problem before us and the very justifiable points the Senator from Connecticut made earlier.

I ask unanimous consent to have printed in the RECORD at this point a summary of the Coleman report, which discusses some of the points that have been made in the course of the debate.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY REPORT

SEGREGATION IN THE PUBLIC SCHOOLS

The great majority of American children attend schools that are largely segregated—that is, where almost all of their fellow students are of the same racial background as they are. Among minority groups, Negroes are by far the most segregated. Taking all groups, however, white children are most segregated. Almost 80 percent of all white pupils in 1st grade and 12th grade attend schools that are from 90 to 100 percent white. And 97 percent at grade 1, and 99 percent at grade 12, attend schools that are 50 percent or more white.

For Negro pupils, segregation is more nearly complete in the South (as it is for whites also), but it is extensive also in all the other regions where the Negro population is concentrated: the urban North, Midwest, and West.

More than 65 percent of all Negro pupils in the first grade attend schools that are between 90 and 100 percent Negro. And 87 percent at grade 1, and 66 percent at grade 12, attend schools that are 50 percent or more Negro. In the South most students attend schools that are 100 percent white or Negro.

The same pattern of segregation holds, though not quite so strongly, for the teachers of Negro and white students. For the Nation as a whole, the average Negro elementary pupil attends a school in which 65 percent of the teachers are Negro; the average white elementary pupil attends a school in which 97 percent of the teachers are white. White teachers are more predominant at the secondary level, where the corresponding figures are 59 and 97 percent. The racial matching of teachers is most pronounced in the South, where by tradition it has been complete. On a nationwide basis, in cases where the races of pupils and teachers are not matched, the trend is all in one direction: white teachers teach Negro children but Negro teachers seldom teach white children; just as, in the schools, integration consists primarily of a minority of Negro pupils in predominantly white schools but almost never of a few whites in largely Negro schools.

In its desegregation decision of 1954, the Supreme Court held that separate schools for Negro and white children are inherently unequal. This survey finds that, when measured by that yard-stick, American public education remains largely unequal in most regions of the country, including all those where Negroes form any signficant proportion of the population. Obviously however, that is not the only yardstick. The next section of the summary describes other characteristics by means of which equality of educational opportunity may be appraised.

THE SCHOOLS AND THEIR CHARACTERISTICS

The school environment of a child consists of many elements, ranging from the desk he sits at to the child who sits next to him, and including the teacher who stands at the front of his class. A statistical survey can give only fragmentary evidence of this environment.

Great collections of numbers such as are found in these pages—totals and averages and percentages—blur and obscure rather than sharpen and illuminate the range of variation they represent. If one reads, for example, that the average annual income per person in the State of Maryland is $3,000, there is a tendency to picture an average person living in moderate circumstances in a middle-class neighborhood holding an ordinary job. But that number represents at the upper end millionaires, and at the lower end the unemployed, the pensioners, the charwomen. Thus the $3,000 average income should somehow bring to mind the tycoon and the tramp, the showcase and the shack, as well as the average man in the average house.

So, too, in reading these statistics on education, one must picture the child whose school has every conceivable facility that is believed to enhance the educational process, and whose teachers may be particularly gifted and well educated, and whose home and total neighborhood are themselves powerful contributors to his education and growth. And one must picture the child in a dismal tenement area who may come hungry to an ancient, dirty building that is badly ventilated, poorly lighted, overcrowded, understaffed, and without sufficient textbooks.

Statistics, too, must deal with one thing at a time, and cumulative effects tend to be lost in them. Having a teacher without a college degree indicates an element of disadvantage, but in the concrete situation, a child may be taught by a teacher who is not only without a degree but who has grown up and received his schooling in the local community, who has never been out of the State, who has a 10th-grade vocabulary, and who shares the local community's attitudes.

One must also be aware of the relative importance of a certain kind of thing to a certain kind of person. Just as a loaf of bread means more to a starving man than to a sated one, so one very fine textbook or, better, one very able teacher, may mean far more to a deprived child than to one who already has several of both.

Finally, it should be borne in mind that in cases where Negroes in the South receive unequal treatment, the significance in terms of actual numbers of individuals involved is very great, since 54 percent of the Negro population of school-going age, or approximately 3,200,000 children, live in that region.

All of the findings reported in this section of the summary are based on responses to questionnaires filled out by public school teachers, principals, district school superintendents, and pupils. The data were gathered in September and October of 1965 from 4,000 public schools. All teachers, principals, and district superintendents in these schools participated, as did all pupils in the 3d, 6th, 9th, and 12th grades. First-grade pupils in half the schools participated. More than 645,000 pupils in all were involved in the survey. About 30 percent of the schools selected for the survey did not participate; an analysis of the nonparticipating schools indicated that their inclusion would not have significantly altered the results of the survey. The participation rates were: in the metropolitan North and West, 72 percent; metropolitan South and Southwest, 65 percent; nonmetropolitan North and West, 82 percent; nonmetropolitan South and Southwest 61 percent.

All the statistics on the physical facilities of the schools and the academic and extracurricular programs are based on information provided by the teachers and administrators. They also provided information about their own education, experience, and philosophy of education, and described as they see them the socioeconomic characteristics of the neighborhoods served by their schools.

The statistics having to do with the pupils' personal socioeconomic backgrounds, level of education of their parents, and certain items in their homes (such as encyclopedias, daily newspapers, etc.) are based on pupil responses to questionnaires. The pupils also answered questions about their academic aspirations and their attitudes toward staying in school.

All personal and school data were confidential and for statistical purposes only; the questionnaires were collected without the names or other personal identification of the respondents.

Data for Negro and white children are classified by whether the schools are in metropolitan areas or not. The definition of a metropolitan area is the one commonly used by government agencies: a city of over 50,000 inhabitants including its suburbs. All other schools in small cities, towns, or rural areas are referred to as nonmetropolitan schools.

Finally, for most tables, data for Negro and white children are classified by geographical regions. For metropolitan schools there are usually five regions defined as follows:

Northeast—Connecticut, Maine, Massachu-

setts, New Hampshire, Rhode Island, Vermont, Delaware, Maryland, New Jersey, New York, Pennsylvania, District of Columbia. (Using 1960 census data, this region contains about 16 percent of all Negro children in the Nation and 20 percent of all white children age 5 to 19.)

Midwest—Illinois, Indiana, Michigan, Ohio, Wisconsin, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota (containing 16 percent of Negro and 19 percent of white children age 5 to 19).

South—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia (containing 27 percent of Negro and 14 percent of white children age 5 to 19).

Southwest—Arizona, New Mexico, Oklahoma, Texas (containing 4 percent of Negro and 3 percent of white children age 5 to 19).

West—Alaska, California, Colorado, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, Wyoming (containing 4 percent of Negro and 11 percent of white children age 5 to 19).

The nonmetropolitan schools are usually classified into only three regions:

South—As above (containing 27 percent of Negro and 14 percent of white children age 5 to 19).

Southwest—As above (containing 4 percent of Negro and 2 percent of white children age 5 to 19).

North and West—All States not in the South and Southwest (containing 2 percent of Negro and 17 percent of white children age 5 to 19).

Data for minority groups other than Negroes—are presented only on a nationwide basis because there were not sufficient cases to warrant a breakdown by regions.

Facilities

The two tables which follow (table 1, for elementary schools, and table 2, for secondary) list certain school characteristics and the percentages of pupils of the various races who are enrolled in schools which have those characteristics. Where specified by "average" the figures represent actual numbers rather than percentages. Reading from left to right, percentage or averages are given on a nationwide basis for the six groups; then comparisons between Negro and white access to the various facilities are made on the basis of regional and metropolitan-nonmetropolitan breakdowns.

Thus, in table 1, it will be seen that for the Nation as a whole white children attend elementary schools with a smaller average number of pupils per room (29) than do any of the minorities (which range from 30 to 33). Farther to the right are the regional breakdowns for whites and Negroes, and it can be seen that in some regions the nationwide pattern is reversed: In the nonmetropolitan North and West and Southwest for example, there is a smaller average number of pupils per room for Negroes than for whites.

The same item on table 2 shows that secondary school whites have a smaller average number of pupils per room than minorities, except Indians. Looking at the regional breakdown, however, one finds much more striking differences than the national average would suggest: In the metropolitan Midwest, for example, the average Negro has 54 pupils per room—probably reflecting considerable frequency of double sessions—compared with 33 per room for whites. Nationally, at the high school level the average white has 1 teacher for every 22 students and the average Negro has 1 for every 26 students. (See table 6b.)

It is thus apparent that the tables must be studied carefully, with special attention paid to the regional breakdowns, which often provide more meaningful information than do the nationwide averages. Such careful study will reveal that there is not a wholly consistent pattern—that is, minorities are not at a disadvantage in every item listed—but that there are nevertheless some definite and systematic directions of differences. Nationally, Negro pupils have fewer of some of the facilities that seem most related to academic achievement: They have less access to physics, chemistry, and language laboratories; there are fewer books per pupil in their libraries; their textbooks are less often in sufficient supply. To the extent that physical facilities are important to learning, such items appear to be more relevant than some others, such as cafeterias, in which minority groups are at an advantage.

TABLE 1.—PERCENT (EXCEPT WHERE AVERAGE SPECIFIED) OF PUPILS IN ELEMENTARY SCHOOLS HAVING THE SCHOOL CHARACTERISTIC NAMED AT LEFT, FALL 1965

Characteristic	Whole nation						Nonmetropolitan						Metropolitan									
							North and West		South		Southwest		Northeast		Midwest		South		Southwest		West	
	MA	PR	IA	OA	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.
Age of main building:																						
Less than 20 years	59	57	66	61	63	60	48	54	72	34	73	40	31	59	28	63	77	75	52	89	76	80
20 to 40 years	18	18	20	20	17	20	35	13	21	43	17	28	23	23	18	18	11	20	27	10	14	9
At least 40 years	22	24	13	18	18	18	17	32	4	20	9	29	43	18	53	18	12	4	21	1	7	7
Average pupils per room	33	31	30	33	32	29	25	28	34	26	21	31	33	30	34	30	30	31	39	26	37	31
Auditorium	20	31	18	21	27	19	3	5	16	40	14	19	56	40	27	10	20	21	11	1	47	12
Cafeteria	39	43	38	30	38	37	41	33	46	64	47	54	41	45	24	22	34	32	48	38	34	14
Gymnasium	19	27	20	14	15	21	9	8	15	31	15	21	46	49	36	19	6	5	13	17	0	8
Infirmary	59	62	64	77	71	68	52	52	49	44	38	39	74	90	74	79	81	76	59	48	93	96
Full-time librarian	22	31	22	24	30	22	4	13	32	22	5	11	46	43	22	15	38	50	11	12	19	13
Free textbooks	80	82	80	85	84	75	73	56	70	73	99	98	100	98	72	54	84	82	83	65	98	100
School has sufficient number of textbooks	90	87	91	93	84	96	97	99	76	94	97	96	90	97	97	99	74	98	82	84	95	90
Texts under 4 years old	66	68	60	52	67	61	66	51	60	60	47	85	57	56	67	59	71	91	76	53	77	77
Central school library	69	71	72	83	73	72	44	58	74	77	48	75	83	89	57	70	79	69	59	33	81	95
Free lunch program	64	73	66	52	74	59	61	50	87	94	83	70	50	43	42	48	90	85	74	82	65	47

Note: In this Summary section, the group identifications are abbreviated as follows: MA—Mexican American; PR—Puerto Rican; IA—Indian American; OA—Oriental American; Neg.—Negro; and Maj.—majority or white.

Table 2.—Percent (except where average specified) of pupils in secondary schools having the school characteristics named at left, fall 1965

Characteristic	Whole nation						Nonmetropolitan						Metropolitan									
							North and West		South		Southwest		Northeast		Midwest		South		Southwest		West	
	MA	PR	IA	OA	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.
Age of main building:																						
Less than 20 years	48	40	49	41	60	53	64	35	79	52	76	44	18	64	33	43	74	84	76	43	53	79
20 to 40 years	40	31	35	32	26	29	15	26	13	33	22	46	41	20	38	37	18	14	16	56	46	19
At least 40 years	11	28	15	26	12	18	21	38	3	15	3	10	40	15	29	20	3	0	6	1	2	3
Average pupils per room	32	33	29	32	34	31	27	30	35	28	22	20	35	28	54	33	30	34	28	42	31	30
Auditorium	57	68	49	66	49	46	32	27	21	36	56	68	77	72	51	44	49	40	67	57	72	45
Cafeteria	72	80	74	81	72	65	55	41	65	78	78	97	88	73	55	54	77	97	75	63	77	79
Gymnasium	78	88	70	83	64	74	51	52	38	63	71	71	90	90	75	76	52	80	70	77	99	95
Shop with power tools	96	88	96	98	89	96	97	96	85	90	88	91	67	97	99	100	89	90	92	97	100	100
Biology laboratory	95	84	96	96	93	94	99	87	85	88	93	96	83	94	100	99	95	100	100	97	100	100
Chemistry laboratory	96	94	99	99	94	98	98	97	85	91	92	95	99	99	100	100	94	100	100	97	100	100
Physics laboratory	90	83	90	97	80	94	80	90	63	83	74	93	92	99	94	96	83	100	96	97	76	100
Language laboratory	57	45	58	75	49	56	32	24	17	32	38	19	47	79	68	57	48	72	69	97	95	80
Infirmary	65	77	77	69	70	75	47	56	53	45	23	47	96	99	70	83	83	83	74	85	71	87
Full-time librarian	84	93	85	98	87	83	53	58	69	76	67	61	97	99	99	94	96	99	71	63	100	99
Free textbooks	74	79	78	88	70	62	42	53	51	43	94	92	98	91	67	39	58	34	98	97	99	86
Sufficient number of textbooks	92	89	90	96	85	95	99	99	79	91	97	100	94	99	98	100	69	97	94	57	96	96
Texts under 4 years old	58	68	65	55	61	62	77	56	64	54	73	66	55	59	51	67	56	65	99	82	59	67
Average library books per pupil	8.1	6.2	6.4	5.7	4.6	5.8	4.5	6.3	4.0	6.1	8.1	14.8	3.8	5.3	3.5	4.8	4.5	5.7	5.6	3.7	6.5	63
Free lunch program	66	80	63	75	74	62	58	54	89	88	61	82	66	52	74	63	79	79	89	52	47	54

Note: In this Summary section, the group identifications are abbreviated as follows: MA—Mexican American; PR—Puerto Rican; IA—Indian American; OA—Oriental American; Neg.—Negro; and Maj.—majority or white.

Usually greater than the majority-minority differences, however, are the regional differences. Table 2, for example, shows that 95 percent of Negro and 80 percent of white high school students in the metropolitan Far West attend schools with language laboratories, compared with 48 and 72 percent, respectively, in the metropolitan South, in spite of the fact that a higher percentage of Southern schools are less than 20 years old.

Finally, it must always be remembered that these statistics reveal only majority-minority average differences and regional average differences; they do not show the extreme differences that would be found by comparing one school with another.

Programs

Tables 3 and 4 summarize some of the survey findings about the school curriculum, administration, and extracurricular activities. The tables are organized in the same way as tables 1 and 2 and should be studied in the same way, again with particular attention to regional differences.

The pattern that emerges from study of these tables is similar to that from tables 1 and 2. Just as minority groups tend to have less access to physical facilities that seem to be related to academic achievement, so too they have less access to curricular and extracurricular programs that would seem to have such a relationship.

Secondary school Negro students are less likely to attend schools that are regionally accredited; this is particularly pronounced in the South. Negro and Puerto Rican pupils have less access to college preparatory curriculums and to accelerated curriculums; Puerto Ricans have less access to vocational curriculums as well. Less intelligence testing is done in the schools attended by Negroes and Puerto Ricans. Finally, white students in general have more access to a more fully developed program of extracurricular activities, in particular those which might be related to academic matters (debate teams, for example, and student newspapers).

Again, regional differences are striking. For example, 100 percent of Negro high school students and 97 percent of whites in the metropolitan Far West attend schools having a remedial reading teacher (this does not mean, of course, that every student uses the services of that teacher, but simply that he has access to them) compared with 46 percent and 65 percent, respectively, in the metropolitan South—and 4 percent and 9 percent in the nonmetropolitan Southwest.

Principals and teachers

The following tables (5, 6a, and 6b) list some characteristics of principals and teachers. On table 5, figures given for the whole Nation of all minorities, and then by region for Negro and white, refer to the percentages of students who attend schools having principals with the listed characteristics. Thus, line one shows that 1 percent of white elementary pupils attend a school with a Negro principal, and that 56 percent of Negro children attend a school with a Negro principal.

Tables 6a and 6b (referring to teachers' characteristics) must be read differently. The figures refer to the percentage of teachers having a specified characteristic in the schools attended by the "average" pupil of the various groups. Thus, line one on table 6a: the average white student goes to an elementary school where 40 percent of the teachers spent most of their lives in the same city, town, or county; the average Negro pupil goes to a school where 53 percent of the teachers have lived in the same locality most of their lives.

Both tables list other characteristics which offer rough indications of teacher quality, including the types of colleges attended, years of teaching experience, salary, educational level of mother, and a score on a 30-word vocabulary test. The average Negro pupil attends a school where a greater percentage of the teachers appears to be somewhat less able, as measured by these indicators, than those in the schools attended by the average white student.

Other items on these tables reveal certain teacher attitudes. Thus, the average white pupil attends a school where 51 percent of the white teachers would not choose to move to another school, whereas the average Negro attends a school where 46 percent would not choose to move.

TABLE 3.—PERCENT OF PUPILS IN ELEMENTARY SCHOOLS HAVING THE CHARACTERISTIC NAMED AT LEFT, FALL 1965

Characteristic	Whole nation						Nonmetropolitan						Metropolitan									
							North and West		South		Southwest		Northeast		Midwest		South		Southwest		West	
	MA	PR	IA	OA	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.
Regionally accredited schools	21	27	26	22	27	28	38	29	16	22	59	39	34	24	52	49	21	35	42	23	22	9
Music teacher	31	34	41	33	24	35	22	43	26	17	37	42	34	49	38	32	21	17	23	61	9	13
Remedial reading teacher	41	45	35	41	39	39	37	46	15	11	12	26	73	58	60	17	28	31	18	29	66	70
Accelerated curriculum	34	32	42	37	29	40	47	26	28	24	32	13	34	47	21	28	19	41	34	76	43	73
Low IQ classes	43	44	44	56	54	48	54	48	30	29	47	25	60	51	73	45	48	33	63	66	77	75
Speech impairment classes	41	44	42	58	41	51	34	49	13	11	27	22	59	73	86	67	20	51	34	23	86	82
Use of intelligence test	93	77	90	95	88	95	85	93	80	91	92	90	73	91	97	99	92	100	97	98	98	99
Assignment practice other than area or open	6	11	9	5	12	6	6	1	27	20	26	2	7	4	1	2	12	22	0	0	4	1
Use of tracking	37	47	40	34	44	36	36	28	38	25	38	23	66	50	40	38	45	35	50	48	36	40
Teachers having tenure	68	68	69	79	70	64	70	64	34	49	7	36	100	98	94	76	51	58	64	39	92	90
Principal salary $9,000 and above	51	52	56	69	51	51	45	34	12	12	22	36	95	86	92	72	30	26	35	14	98	99
School newspaper	23	29	35	37	28	29	39	43	25	26	8	6	28	31	31	24	29	27	22	11	31	31
Boys' interscholastic athletics	55	44	51	47	41	43	71	62	51	51	59	72	22	22	43	46	38	22	43	54	34	22
Girls' interscholastic athletics	35	29	36	32	26	26	37	35	39	38	40	44	19	14	17	17	2	6	29	43	25	18
Band	71	63	64	76	66	72	82	81	39	40	54	76	67	73	77	86	66	85	52	33	95	94
Drama club	26	37	32	33	38	29	43	33	50	31	25	25	34	32	36	29	35	23	33	2	37	36
Debate team	6	4	4	7	5	4	0	3	14	6	10	6	1	3	0	0	3	6	16	8	0	2

Note: In this Summary section, the group identifications are abbreviated as follows: MA—Mexican American; PR—Puerto Rican; IA—Indian American; OA—Oriental American; Neg.—Negro; and Maj.—majority or white.

TABLE 4.—PERCENT OF PUPILS IN SECONDARY SCHOOLS HAVING THE CHARACTERISTIC NAMED AT LEFT, FALL 1965

Characteristic	Whole nation						Nonmetropolitan						Metropolitan									
							North and West		South		Southwest		Northeast		Midwest		South		Southwest		West	
	MA	PR	IA	OA	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.
Regionally accredited schools	77	78	71	86	68	76	69	65	40	59	30	62	74	74	75	86	72	81	92	86	100	100
Music teacher, full-time	84	94	88	96	85	88	87	87	65	61	85	77	95	97	96	96	87	100	91	82	99	97
College preparatory curriculum	95	90	96	98	88	96	98	95	74	92	81	83	93	99	99	100	87	100	89	82	100	100
Vocational curriculum	56	50	55	68	56	55	49	64	51	62	52	34	42	35	60	60	58	21	89	80	65	65
Remedial reading teacher	57	76	55	81	53	52	35	32	24	20	4	9	81	66	62	57	46	65	63	62	100	97
Accelerated curriculum	67	60	66	80	61	66	42	46	46	58	25	25	60	82	64	78	72	81	87	55	74	78
Low IQ classes	54	56	50	85	54	49	44	47	23	20	46	12	75	62	86	59	37	34	64	14	98	97
Speech impairment classes	28	58	28	51	21	31	18	33	10	6	1	11	43	44	48	42	0	10	14	3	45	52
Use of intelligence test	91	57	84	86	80	89	79	93	83	90	97	100	59	87	86	86	78	100	94	75	89	90
Assignment practice other than area or open	4	20	9	3	19	4	5	0	32	14	2	0	14	5	0	0	36	9	4	0	0	8
Use of tracking	79	88	79	85	75	74	41	48	55	57	21	24	94	92	74	90	80	80	92	82	99	93
Teachers having tenure	65	86	71	85	61	72	47	73	33	41	2	3	100	98	97	83	50	79	24	15	96	88
Principal's salary $9,000 and above	73	89	73	91	66	72	54	64	31	37	59	63	99	99	76	91	61	46	86	18	100	100
School newspaper	89	95	86	97	80	89	71	72	50	81	67	71	95	93	99	97	87	100	66	94	100	100
Boys' interscholastic athletics	94	90	98	99	95	98	99	99	97	100	96	93	80	95	100	97	93	100	95	100	100	100
Girls' interscholastic athletics	58	33	59	37	57	54	32	32	80	69	89	81	51	60	50	43	45	80	89	97	38	35
Band	92	88	92	98	91	95	90	97	80	76	84	81	92	97	100	100	93	100	99	100	100	100
Drama club	95	93	89	92	92	93	75	91	87	75	91	88	92	88	93	99	94	94	100	97	100	100
Debate team	51	32	46	50	39	52	43	48	27	36	80	67	27	46	49	69	42	58	68	63	37	48

Note: In this Summary section, the group identifications are abbreviated as follows: MA—Mexican American; PR—Puerto Rican; IA—Indian American; OA—Oriental American; Neg.—Negro; and Maj.—majority or white.

TABLE 5.—PERCENT OF PUPILS IN ELEMENTARY AND SECONDARY SCHOOLS HAVING PRINCIPALS WITH CHARACTERISTIC NAMED AT LEFT, FALL 1965

Characteristic	Whole nation						Nonmetropolitan						Metropolitan									
							North and West		South		Southwest		Northeast		Midwest		South		Southwest		West	
	MA	PR	IA	OA	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.
Elementary schools:																						
Negro principal	16	27	11	12	56	1	13	0	86	2	69	1	9	1	28	0	94	2	64	0	3	0
Majority principal	79	71	80	77	39	95	79	90	7	91	24	97	86	97	69	94	1	97	29	100	95	99
Principal with at least M.A	85	84	77	86	84	80	69	69	65	64	86	91	98	90	98	92	83	74	95	85	96	94
Principal would keep neighborhood school despite racial imbalance	62	52	58	52	45	65	58	67	39	67	58	67	38	53	61	80	48	71	78	67	29	53
Principal approves compensatory education	66	68	61	70	72	59	63	60	61	46	52	58	76	64	82	63	67	46	75	52	92	76
Principal would deliberately mix faculty for:																						
Most minority pupils	40	48	38	47	48	43	31	44	41	43	43	35	56	37	51	40	43	44	52	45	61	57
Mixed pupils	34	46	31	42	44	35	46	40	37	35	35	26	50	32	50	34	40	28	46	23	52	42
Almost all majority pupils	17	30	15	25	35	14	19	13	29	3	18	3	48	18	42	15	34	7	33	1	41	37
Secondary schools:																						
Negro principal	9	12	7	3	61	1	8	0	85	0	68	0	22	0	36	4	97	0	82	0	10	0
Majority principal	89	81	91	76	37	95	79	87	10	94	25	98	75	99	64	95	3	100	18	100	90	99
Principal with at least M.A	91	97	94	94	96	93	89	85	92	90	90	90	97	97	100	100	97	93	94	86	100	100
Principal would keep neighborhood school despite racial imbalance	49	37	50	33	32	56	54	49	41	73	27	52	25	53	48	55	18	91	80	64	14	28
Principal approves compensatory education	80	83	73	94	78	71	73	59	66	55	81	49	75	79	71	79	80	57	100	80	100	100
Principal would deliberately mix faculty for:																						
Mostly minority pupils	56	47	61	70	54	58	50	53	41	49	57	43	41	50	46	71	53	42	85	86	92	65
Mixed pupils	35	41	45	57	46	40	40	39	36	19	37	7	37	37	18	56	57	32	47	46	82	55
Almost all majority pupils	22	32	23	43	39	14	17	9	23	1	32	1	35	20	14	29	48	0	70	1	78	26

Note: In this Summary section, the group identifications are abbreviated as follows: MA—Mexican American; PR—Puerto Rican; IA—Indian American; OA—Oriental American; Neg.—Negro; and Maj.—majority or white.

TABLE 6A.—CHARACTERISTICS OF TEACHERS IN THE ELEMENTARY SCHOOLS ATTENDED BY THE AVERAGE WHITE AND MINORITY PUPIL—PERCENT OF TEACHERS WITH CHARACTERISTIC NAMED AT LEFT, FALL 1965

Characteristic	Whole nation						Nonmetropolitan						Metropolitan									
							North and West		South		Southwest		Northeast		Midwest		South		Southwest		West	
	MA	PR	IA	OA	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.
Percent teachers who spent most of life in present city, town, or county	37	54	35	39	53	40	34	40	54	55	40	31	64	51	55	39	69	37	35	18	24	24
Average teacher verbal score [1]	22	22	22	23	20	23	23	24	17	22	20	22	22	23	22	23	19	23	21	24	22	24
Percent teachers majored in academic subjects	19	18	17	21	17	16	16	18	12	14	16	22	19	17	17	15	18	16	9	7	23	22
Percent teachers who attended college not offering graduate degrees	39	41	37	32	53	37	48	38	63	47	44	30	45	38	39	40	72	46	44	26	22	21
Percent teachers attended college with predominantly white student enrollment	79	70	85	83	39	97	81	99	9	97	28	93	73	97	75	97	7	95	43	98	82	96
Average educational level of teacher's mother (score) [2]	3.7	3.5	3.7	3.8	3.5	3.7	3.4	3.5	2.9	3.5	3.6	3.7	3.6	3.7	3.7	3.6	3.5	4.2	3.8	3.8	4.1	4.2
Average highest degree earned [3]	3.1	3.1	3.1	3.1	3.2	3.0	2.8	2.8	3.1	3.0	3.4	3.3	3.2	3.1	3.1	3.0	3.2	3.0	3.5	3.2	3.3	3.1
Average teacher-years experience	13	12	12	12	13	12	12	13	14	16	14	13	11	11	11	14	14	10	13	11	11	10
Average teacher salary ($1,000's)	5.9	6.0	6.1	6.6	6.0	6.0	5.8	5.7	4.7	5.0	5.5	5.4	7.2	7.1	7.0	6.5	5.2	5.0	5.9	5.1	7.8	7.3
Average pupils per teacher	30	30	30	28	20	28	26	25	32	27	23	26	27	26	29	28	28	30	30	42	30	31
Percent teachers would not choose to move to another school	58	57	59	59	55	65	56	60	49	73	57	64	53	64	49	63	61	76	63	59	55	66
Percent teachers plan to continue until retirement	44	42	41	39	45	37	42	35	50	51	57	55	31	32	34	31	51	34	48	46	41	34
Percent teachers prefer white pupils	27	21	26	20	7	37	22	32	6	57	10	45	8	18	12	37	1	57	12	48	8	31
Percent teachers approve compensatory education	56	59	56	64	61	56	53	56	55	47	53	44	69	66	65	55	59	49	56	54	73	66
Percent Negro teachers	19	30	14	15	65	2	17	1	90	2	75	1	31	2	40	2	96	4	65	1	22	2
Percent White teachers	78	67	83	79	32	97	82	99	8	96	24	96	67	97	58	98	2	96	32	98	69	59

[1] Score is the average number of correct items on a 30-item verbal facility test.
[2] Educational attainment scored from 1–8 (lowest to highest); 4 represents high school graduate.
[3] Highest degree earned scored from 1–6 (lowest to highest); 3 represents a bachelors degree.

Note: In this Summary section, the group identifications are abbreviated as follows: MA—Mexican American; PR—Puerto Rican; IA—Indian American; OA—Oriental American; Neg.—Negro; and Maj.—majority or white.

Student body characteristics

Tables 7 and 8 present data about certain characteristics of the student bodies attending various schools. These tables must be read the same as those immediately preceding. Looking at the sixth item on table 7, one should read: the average white high school student attends a school in which 82 percent of his classmates report that there are encyclopedias in their homes. This does not mean that 82 percent of all white pupils have encyclopedias at home, although obviously that would be approximately true. In short, these tables attempt to describe the characteristics of the student bodies with which the "average" white or minority student goes to school.

Clear differences are found on these items. The average Negro has fewer classmates whose mothers graduated from high school; his classmates more frequently are members of large rather than small families; they are less often enrolled in a college preparatory curriculum; they have taken a smaller number of courses in English, mathematics, foreign language, and science.

On most items, the other minority groups fall between Negroes and whites, but closer to whites, in the extent to which each characteristic is typical of their classmates.

Again, there are substantial variations in the magnitude of the differences, with the difference usually being greater in the Southern States.

ACHIEVEMENT IN THE PUBLIC SCHOOLS

The schools bear many responsibilities. Among the most important is the teaching of certain intellectual skills such as reading, writing, calculating, and problem solving. One way of assessing the educational opportunity offered by the schools is to measure how well they perform this task. Standard achievement tests are available to measure these skills, and several such tests were administered in this survey to pupils at grades 1, 3, 6, 9, and 12.

These tests do not measure intelligence, nor attitudes, nor qualities of character. Furthermore, they are not, nor are they intended to be, "culture free." Quite the reverse: they are culture bound. What they measure are the skills which are among the most important in our society for getting a good job and moving up to a better one, and for full participation in an increasingly technical world. Consequently, a pupil's test results at the end of public school provide a good measure of the range of opportunities open to him as he finishes school—a wide range of choice of jobs or colleges if these skills are very high; a very narrow range that includes only the most menial jobs if these skills are very low.

Table 9 gives an overall illustration of the test results for the various groups by tabulating nationwide median scores (the score which divides the group in half) for 1st-grade and 12th-grade pupils on the tests used in those grades. For example, half of the white 12th-grade pupils had scores above 52 on the nonverbal test and half had scores below 52. (Scores on each test at each grade level were standardized so that the average over the national sample equaled 50 and the standard deviation equaled 10. This means that for all pupils in the Nation, about 16 percent would score below 40 and about 16 percent above 60).

TABLE 6B.—CHARACTERISTICS OF TEACHERS IN THE SECONDARY SCHOOLS ATTENDED BY THE AVERAGE WHITE AND MINORITY PUPIL, FALL 1965

Characteristic	Whole Nation						Nonmetropolitan						Metropolitan									
							North and West		South		Southwest		Northeast		Midwest		South		Southwest		West	
	MA	PR	IA	OA	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.
Percent of teachers who spent most of life in present city, town, or county	31	55	31	36	41	34	20	23	38	48	35	28	62	49	34	31	52	41	37	19	22	25
Average teacher verbal score [1]	23	22	23	23	21	23	23	24	19	23	22	24	22	23	22	23	21	23	21	24	23	24
Percent of teachers majored in academic subjects	37	40	39	40	38	40	39	36	37	35	30	32	40	46	35	41	42	41	25	36	38	41
Percent of teachers who attended colleges not offering graduate degrees	26	27	27	20	44	31	33	31	52	44	32	17	25	29	38	34	64	42	42	22	16	13
Percent of teachers who attended colleges with predominantly white student enrollment	90	86	92	86	44	48	90	99	15	99	31	98	85	98	75	97	8	97	29	99	90	95
Average educational level of teacher's mother (score) [2]	3.8	3.5	3.8	3.7	3.6	3.8	3.6	3.8	3.3	3.8	3.7	3.8	3.5	3.5	3.7	3.8	3.8	4.3	3.4	3.7	4.1	4.0
Average highest degree earned [3]	3.4	3.5	3.4	3.6	3.3	3.4	3.2	3.2	3.2	3.2	3.4	3.4	3.5	3.5	3.4	3.4	3.2	3.3	3.4	3.3	3.6	3.5
Average teacher years experience	11	11	10	11	11	10	9	10	10	12	11	11	12	11	11	10	12	8	11	9	11	11
Average teacher salary ($1,000's)	6.8	7.6	6.8	7.7	6.4	6.6	6.0	6.3	4.9	5.2	5.6	5.8	7.8	7.6	7.2	7.2	5.5	5.4	6.1	5.5	8.8	8.3
Average pupils per teacher	23	22	23	24	26	22	20	20	30	25	20	21	24	20	25	24	26	25	25	26	23	23
Percentage of teachers would not choose to move to another school	49	48	48	48	46	51	39	42	42	59	48	63	51	55	45	49	50	62	55	51	42	47
Percentage of teachers plan to continue until retirement	36	41	34	40	38	33	25	28	35	36	43	43	44	38	37	31	36	23	37	30	44	41
Percentage of teachers prefer white pupils	26	13	24	13	8	32	28	28	8	58	15	48	8	14	11	31	2	52	7	38	10	21
Percentage of teachers approve compensatory education	61	67	60	68	66	60	55	62	60	49	59	50	72	67	67	58	67	54	67	49	72	70
Percent Negro teachers	10	16	8	6	59	2	11	2	85	2	70	1	18	2	35	2	94	1	77	0	14	2
Percent White teachers	87	81	88	76	38	97	88	97	13	98	27	98	79	96	64	97	3	99	20	97	82	94

[1] Score is the average number of correct items on a 30-item verbal facility test.
[2] Educational attainment scored from 1–8 (lowest to highest); 4 represents high school graduate.
[3] Highest degree earned scored from 1–6 (lowest to highest); 3 represents a Bachelors degree.

Note: In this Summary section, the group identifications are abbreviated as follows: MA—Mexican American; PR—Puerto Rican; IA—Indian American; OA—Oriental American; Neg.—Negro; and Maj.—majority or white.

TABLE 7.—FOR THE AVERAGE MINORITY OR WHITE PUPIL, THE PERCENT OF FELLOW PUPILS WITH THE SPECIFIED CHARACTERISTICS, FALL 1965

Level of school and pupil characteristics	Whole nation						Nonmetropolitan						Metropolitan									
							North and West		South		Southwest		Northeast		Midwest		South		Southwest		West	
	MA	PR	IA	OA	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.
Elementary schools:																						
Mostly white classmates last year	59	52	66	63	19	89	59	91	17	91	19	72	33	87	26	91	7	91	27	91	20	86
All white teachers last year	75	68	77	74	53	88	71	89	53	87	57	85	60	89	52	88	49	89	51	89	52	85
Encyclopedia in home	62	57	64	70	54	75	62	72	36	65	48	64	71	84	60	80	51	80	57	72	64	83
Secondary schools:																						
Mostly white classmates last year	72	56	72	57	10	91	77	96	12	94	23	88	41	90	40	89	4	95	14	96	35	81
All white teachers last year	73	57	75	57	25	89	79	93	11	93	23	90	44	84	45	88	3	92	16	95	46	79
Encyclopedia in home	77	76	75	82	69	82	76	78	52	75	66	75	82	87	80	86	67	88	73	83	78	83
Mother high school graduate or more	49	47	50	53	40	58	51	58	23	45	44	48	51	63	49	63	37	58	41	49	53	65
Taking college preparatory course	36	38	35	41	32	41	29	35	22	33	28	32	39	53	43	46	34	44	29	31	34	46
Taking some vocational course	27	30	28	32	27	23	22	24	23	20	25	20	30	20	28	25	27	16	37	38	35	30
2½ years or more of science	36	38	38	38	39	42	41	41	41	38	47	39	43	55	32	38	43	43	42	31	26	34
1½ years or more of language	37	41	35	43	35	40	29	30	25	26	19	23	49	60	36	44	38	44	34	23	37	50
3½ years or more of English	77	73	80	76	69	83	68	78	66	89	75	84	79	91	73	79	67	89	71	87	63	72
2½ years or more of math	47	45	44	47	44	49	40	39	43	46	50	52	47	73	41	50	46	55	58	45	37	47

Note: In this Summary section, the group identifications are abbreviated as follows: MA—Mexican American; PR—Puerto Rican; IA—Indian American; OA—Oriental American; Neg.—Negro; and Maj.—majority or white.

TABLE 8.—FOR THE AVERAGE MINORITY OR WHITE PUPIL, THE PERCENT OF FELLOW PUPILS WITH THE SPECIFIED CHARACTERISTICS, FALL 1965

Secondary school pupil characteristic	Whole nation						Nonmetropolitan						Metropolitan									
							North and West		South		Southwest		Northeast		Midwest		South		Southwest		West	
	MA	PR	IA	OA	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.
Mother not reared in city	45	33	44	33	45	42	58	50	64	65	53	61	25	19	35	32	45	42	48	60	34	33
Real father at home	77	71	75	84	64	83	80	84	65	84	64	85	67	83	70	84	58	84	55	84	62	74
Real mother at home	90	88	90	89	85	92	90	92	82	93	82	94	88	92	90	92	83	92	83	94	86	88
Five or more brothers and sisters	28	27	30	27	44	20	30	24	56	23	54	23	25	15	34	19	48	13	47	17	36	21
Mother expects best in class	48	49	45	42	62	43	47	39	71	55	67	54	50	41	49	38	69	49	71	51	53	41
Parents daily discuss school	47	46	44	42	49	47	44	44	51	51	52	54	50	52	44	45	53	53	51	43	43	44
Father expects at least college graduate	38	34	35	37	38	37	36	32	33	37	39	44	33	39	36	38	39	44	45	45	37	40
Mother expects at least college graduate	41	39	39	41	44	41	41	35	42	40	48	45	38	42	43	41	48	45	52	50	43	44
Parents attend PTA	36	38	34	37	51	37	36	40	59	37	50	34	43	37	45	36	61	44	42	26	36	30
Parents read to child regularly before he started school	25	28	24	24	30	26	26	24	30	25	32	23	32	31	27	27	33	29	31	21	26	27

Note: In this Summary section, the group identifications are abbreviated as follows: MA—Mexican American; PR—Puerto Rican; IA—Indian American; OA—Oriental American; Neg.—Negro; and Maj.—majority or white.

TABLE 9.—NATIONWIDE MEDIAN TEST SCORES FOR 1ST- AND 12TH-GRADE PUPILS, FALL 1965

Test	Racial or ethnic group					
	Puerto Ricans	Indian Americans	Mexican-Americans	Oriental Americans	Negro	Majority
1st grade:						
Nonverbal	45.8	53.0	50.1	56.6	43.4	54.1
Verbal	44.9	47.8	46.5	51.6	45.4	53.2
12th grade:						
Nonverbal	43.3	47.1	45.0	51.6	40.9	52.0
Verbal	43.1	43.7	43.8	49.6	40.9	52.1
Reading	42.6	44.3	44.2	48.8	42.2	51.9
Mathematics	43.7	45.9	45.5	51.3	41.8	51.8
General information	41.7	44.7	43.3	49.0	40.6	52.2
Average of the 5 tests	43.1	45.1	44.4	50.1	41.1	52.0

With some exceptions—notably Oriental Americans—the average minority pupil scores distinctly lower on these tests at every level than the average white pupil. The minority pupils' scores are as much as one standard deviation below the majority pupils' scores in the 1st grade. At the 12th grade, results of tests in the same verbal and nonverbal skills show that, in every case, the minority scores are farther below the majority than are the 1st-graders. For some groups, the relative decline is negligible; for others, it is large.

Furthermore, a constant difference in standard deviations over the various grades represents an increasing difference in grade level gap. For example, Negroes in the metropolitan Northeast are about 1.1 standard deviations below whites in the same region at grades 6, 9, and 12. But at grade 6 this represents 1.6 years behind; at grade 9, 2.4 years; and at grade 12, 3.3 years. Thus, by this measure, the deficiency in achievement is progressively greater for the minority pupils at progressively higher grade levels.

For most minority groups, then, and most particularly the Negro, schools provide little opportunity for them to overcome this initial deficiency; in fact they fall farther behind the white majority in the development of several skills which are critical to making a living and participating fully in modern society. Whatever may be the combination of nonschool factors—poverty, community attitudes, low educational level of parents—which put minority children at a disadvantage in verbal and nonverbal skills when they enter the first grade, the fact is the schools have not overcome it.

Some points should be borne in mind in reading the table. First, the differences shown should not obscure the fact that some minority children perform better than many white children. A difference of one standard deviation in median scores means that about 84 percent of the children in the lower group are below the median of the majority students—but 50 percent of the white children are themselves below that median as well.

A second point of qualification concerns regional differences. By grade 12, both white and Negro students in the South score below their counterparts—white and Negro—in the North. In addition, Southern Negroes score farther below Southern whites than Northern Negroes score below Northern whites. The consequences of this patten can be illustrated by the fact that the 12th grade Negro in the nonmetropolitan South is 0.8 standard deviation below—or, in terms of years, 1.9 years behind—the Negro in the metropolitan Northeast, though at grade 1 there is no such regional difference.

Finally, the test scores at grade 12 obviously do not take account of those pupils who have left school before reaching the senior year. In the metropolitan North and West, 20 percent of the Negroes of ages 16 and 17 are not enrolled in school—a higher dropout percentage than in either the metropolitan or nonmetropolitan South. If it is the case that some or many of the Northern dropouts performed poorly when they were in school, the Negro achievement in the North may be artificially elevated because some of those who achieved more poorly have left school.

RELATION OF ACHIEVEMENT TO SCHOOL CHARACTERISTICS

If 100 students within a school take a certain test, there is likely to be great variation in their scores. One student may score 97 percent, another 13; several may score 78 percent. This represents variability in achievement within the particular school.

It is possible, however, to compute the average of the scores made by the students within that school and to compare it with the average score, or achievement, of pupils within another school, or many other schools. These comparisons then represent variations between schools.

When one sees that the average score on a verbal achievement test in school X is 55 and in school Y is 72, the natural question to ask is: What accounts for the difference?

There are many factors that may be associated with the difference. This analysis concentrates on one cluster of those factors. It attempts to describe what relationship the school's characteristics themselves (libraries, for example, and teachers and laboratories, and so on) seem to have to the achievement of majority and minority groups (separately for each group on a nationwide basis, and also for Negro and white pupils in the North and South).

The first finding is that the schools are remarkably similar in the way they relate to the achievement of their pupils when the socioeconomic background of the students is taken into account. It is known that socioeconomic factors bear a strong relation to academic achievement. When these factors are statistically controlled, however, it appears that differences between schools account for only a small fraction of differences in pupil achievement.

The schools do differ, however, in their relation to the various racial and ethnic groups. The average white student's achievement seems to be less affected by the strength or weakness of his school's facilities, curriculums, and teachers than is the average minority pupil's. To put it another way, the achievement of minority pupils depends more on the schools they attend than does the achievement of majority pupils. Thus, 20 percent of the achievement of Negroes in the South is associated with the particular schools they go to, whereas only 10 percent of the achievement of whites in the South is. Except for Oriental Americans, this general result is found for all minorities.

The inference might then be made that improving the school of a minority pupil may increase his achievement more than would improving the school of a white child increase his. Similarly, the average minority pupil's achievement may suffer more in a school of low quality than might the average white pupil's. In short, whites, and to a lesser extent Oriental Americans, are less affected one way or the other by the quality of their schools than are minority pupils. This indicates that it is for the most disadvantaged children that improvements in school quality will make the most difference in achievement.

All of these results suggest the next question: What are the school characteristics that are most related to achievement? In other words, what factors in the school seem to be most important in affecting achievement?

It appears that variations in the facilities and curriculums of the schools account for relatively little variation in pupil achievement insofar as this measured by standard tests. Again, it is for majority whites that the variations make the least difference; for minorities, they make somewhat more difference. Among the facilities that show some relationship to achievement are several for which minority pupils' schools are less well equipped relative to whites. For example, the existence of science laboratories showed a small but consistent relationship to achievement, and table 2 shows that minorities, especially Negroes, are in schools with fewer of these laboratories.

The quality of teachers shows a stronger relationship to pupil achievement. Furthermore, it is progressively greater at higher grades, indicating a cumulative impact of the qualities of teachers in a school on the pupil's achievements. Again, teacher quality seems more important to minority achievement than to that of the majority.

It should be noted that many characteristics of teachers were not measured in this survey; therefore, the results are not at all conclusive regarding the specific characteristics of teachers that are most important. Among those measured in the survey, however, those that bear the highest relationship to pupil achievement are first, the teacher's score on the verbal skills test, and then his educational background—both his own level of education and that of his parents. On both of these measures, the level of teachers of minority students, especially Negroes, is lower.

Finally, it appears that a pupil's achievement is strongly related to the educational backgrounds and aspirations of the other students in the school. Only crude measures of these variables were used (principally the proportion of pupils with encyclopedias in the home and the proportion planning to go to college). Analysis indicates, however, that children from a given family background, when put in schools of different social composition, will achieve at quite different levels. This effect is again less for white pupils than for any minority group other than Orientals. Thus, if a white pupil from a home that is strongly and effectively supportive of education is put in a school where most pupils do not come from such homes, his achievement will be little different than if he were in a school composed of others like himself. But if a minority pupil from a home without much educational strength is put with schoolmates with strong educational backgrounds, his achievement is likely to increase.

This general result, taken together with the earlier examinations of school differences, has important implications for equality of educational opportunity. For the earlier tables show that the principal way in which the school environments of Negroes and whites differ is in the composition of their student bodies, and it turns out that the composition of the student bodies has a strong relationship to the achievement of Negro and other minority pupils.

* * * * *

This analysis has concentrated on the educational opportunities offered by the schools in terms of their student body composition, facilities, curriculums, and teachers. This emphasis, while entirely appropriate as a response to the legislation calling for the survey, nevertheless neglects important factors in the variability between individual pupils within the same school; this variability is roughly four times as large as the variability between schools. For example, a pupil attitude factor, which appears to have a stronger relationship to achievement than do all the "school" factors together, is the extent to which an individual feels that he has some control over his own destiny. Data on items related to this attitude are shown in table 10 along with data on other attitudes and aspirations. The responses of pupils to questions in the survey show that minority pupils, except for Orientals, have far less conviction than whites that they can affect their own environments and futures. When they do, however, their achievement is higher than that of whites who lack that conviction.

Furthermore, while this characteristic shows little relationship to most school factors, it is related, for Negroes, to the proportion of whites in the schools. Those Negroes in schools with a higher proportion of whites have a greater sense of control. This finding suggests that the direction such an attitude takes may be associated with the pupil's school experience as well as his experience in the larger community.

OTHER SURVEYS AND STUDIES

A number of studies were carried out by the Office of Education in addition to the major survey of public elementary and secondary schools. Some of these were quite extensive investigations with book-length final reports; certain of them will be published in full as appendixes to the main re-

port. There will be other appendixes containing more detailed analyses of the public school data than could be included in the main report. Still other appendixes will contain detailed tabulation of the data gathered in the survey so that research workers will have easy access to them.

Opportunity in institutions of higher education

The largely segregated system of higher education in the South has made comparison between colleges attended mainly by Negro students and mainly by majority students easy in that region. Elsewhere it has not been possible in the past to make comparison between educational opportunities because of the general policy in Federal and State agencies of not collecting data on race. In the fall of 1965, however, the Office of Education reversed this policy as a result of the interest of many agencies and organizations in the progress of minority pupils in gaining access to higher education. The racial composition of freshmen of all degree-seeking students was obtained from nearly all of the colleges and universities in the nation.

These racial compositions have been cross-tabulated against a variety of characteristics of the institutions in the report itself. Here we present only three such cross-tabulations which relate particularly to the overall quality of the institutions. First, there are presented three tables (11, 12, 13), showing the distribution of Negro students in number and by percentages over eight regions of the Nation. Over half of all Negro college students attend the largely segregated institutions in the South and Southwest. About 4.6 percent of all college students are Negro (11.5 percent of college-age persons are Negro).

Following the three distribution tables are three cross-tabulations showing, respectively: student-faculty ratio, percent of faculty with earned doctorate, and average faculty salary. Looking at table 14, the upper column headings classify the institution by percent of Negro students in the total enrollment; for each of these the next column headings show the number of such institutions in the category at the left of the table and the average number of students per faculty member; the average is weighted (abbreviated in col. head "Wtd. avg.") by the number of students in an institution, so that large colleges have large influence on the average. For example, the numbers 8 and 22 in the top line of the 0% column mean that there were 8 institutions in the North Atlantic region with no Negro students, and that there were on the average 22 students per faculty member in these 8 institutions. The bottom line shows that whereas the bulk of the institutions (1,104 in the 0–2% column) have on the average 20 students per faculty member, those with predominantly Negro enrollment (the 96 in the 50–100% column) have on the average 16 students per faculty member. Table 15 provides the same categories of information on the percent of faculty with Ph. D. degree. Negro students are proportionally in colleges with lower proportions of Ph. D. faculty (bottom line of table 15); this is generally but not always true in the various regions.

TABLE 10.—PERCENT OF MINORITY AND WHITE 12TH-GRADE PUPILS HAVING CERTAIN ATTITUDES AND ASPIRATIONS, FALL 1965

Item	Whole nation						Nonmetropolitan						Metropolitan									
							North and West		South		Southwest		Northeast		Midwest		South		Southwest		West	
	MA	PR	IA	OA	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.	Neg.	Maj.
Do anything to stay in school	37	35	36	44	46	45	43	44	49	50	56	50	47	47	44	43	48	54	50	47	35	44
Desires to be best in class	33	36	38	46	58	33	48	35	69	46	68	48	48	36	49	33	63	45	70	45	50	35
3 or more hours per day study outside of school	22	21	17	42	31	23	26	21	32	23	36	23	33	27	27	19	33	27	33	22	27	23
No willful absence	59	53	60	76	76	66	72	65	84	75	86	73	68	61	73	66	78	69	77	69	64	56
Read at least 1 book last summer	69	72	73	74	80	75	76	74	83	73	82	75	81	79	75	74	83	73	80	72	76	75
Desires to finish college	43	43	42	46	46	45	43	38	42	41	51	47	43	49	46	47	52	52	57	45	42	51
Definitely planning to attend college next year	26	26	27	53	34	40	22	35	30	35	41	50	31	46	33	37	35	41	43	40	48	55
Have read a college catalog	46	45	50	70	54	61	51	57	49	50	54	64	59	73	55	59	57	67	59	63	54	65
Have consulted college officials	22	25	26	33	25	37	26	33	22	38	23	38	32	46	25	35	24	44	26	30	25	30
Believes self to be brighter than average	31	37	31	51	40	49	41	48	42	45	44	51	37	48	36	50	40	48	46	51	43	56
I just can't learn	38	37	44	38	27	39	31	39	24	37	21	35	29	39	34	40	23	37	25	39	28	38
I would do better if teacher didn't go so fast	28	31	26	26	21	24	23	23	22	25	19	24	22	22	22	24	20	24	19	25	20	25
Luck more important than work	11	19	11	8	11	4	14	4	15	4	14	4	9	4	9	4	10	4	11	4	10	4
When I try, something or somebody stops me	23	30	27	18	22	14	24	14	22	16	26	14	21	13	23	15	19	14	23	13	21	21
People like me don't have much of a chance	12	19	14	9	12	6	15	6	11	6	11	5	12	5	13	6	10	6	11	4	13	6
Expect professional career	18	21	21	43	27	37	26	34	25	31	26	38	31	46	31	37	27	37	28	37	22	38

Note: In this Summary section, the group identifications are abbreviated as follows: MA—Mexican American; PR—Puerto Rican; IA—Indian American; OA—Oriental American; Neg.—Negro; and Maj.—majority or white.

Table 16 shows the average annual salary in dollars for faculty members in the same format as before. Negro students are in colleges with substantially lower faculty salaries. The institutions in the South and Southwest generally pay lower salaries than those in other regions, and the colleges serving primarily the Negro students are at the bottom of this low scale.

Other findings of the study are that—(1) In every region Negro students are more likely to enter the State college system than the State university system, and further they are a smaller proportion of the student body of universities than any other category of public institutions of higher education, (2) Negro students are more frequently found in institutions which have a high dropout rate, (3) they attend mainly institutions with low tuition cost, (4) they tend to major in engineering, agriculture, education, social work, social science, and nursing.

FUTURE TEACHERS

Since a number of investigations of teacher qualification in the past few years have indicated that teachers of Negro children are less qualified than those who teach primarily majority children, this survey investigated whether there might be some promise that the situation may be changed by college students now preparing to become teachers. To this end, questionnaire and achievement test data were secured from about 17,000 college freshmen and 5,500 college seniors in 32 teacher training colleges in 18 States that in 1960 included over 90 percent of the Nation's Negro population. Some of the findings of this survey are:

1. At both the freshman and senior levels, future teachers are very similar to students in their colleges who are following other career lines. (It should be remembered that these comparisons are limited to students in colleges that have a primary mission in the training of teachers, and is not, of course, a random sample of all colleges.)

2. Majority students being trained at the college level to enter teaching have a stronger preparation for college than have Negro students; that is, they had more courses in foreign languages, English, and mathematics, made better grades in high school, and more often were in the highest track in English.

TABLE 11.—ESTIMATED NUMBER OF COLLEGE STUDENTS BY RACE AND REGION, FALL 1965[1]

	New England	Mideast	Great Lakes	Plains	South	Southwest	Rocky Mountains	Far West	Total
Majority	313,514	781,112	821,999	375,043	778,472	434,005	175,000	552,153	4,232,098
Negro	2,216	30,226	30,870	8,500	101,648	20,620	1,605	11,631	207,316
Other minority	1,538	6,542	10,882	2,885	4,996	7,012	1,968	16,092	51,855
Total	317,268	817,880	863,691	386,428	885,116	461,637	179,373	579,867	4,491,269

[1] Based on reports received on 2,013 institutions from among a total of 2,183.

TABLE 12.—PERCENT DISTRIBUTION OF COLLEGE STUDENTS BY RACE ACROSS REGION, FALL 1965[1]

	New England	Mideast	Great Lakes	Plains	South	South-west	Rocky Mountains	Far West	Total
Majority	7.41	18.46	19.42	8.86	18.39	10.26	4.15	13.05	100
Negro	1.07	15.48	14.89	4.10	49.03	9.95	.77	5.61	100
Other minority	2.97	12.62	20.87	5.56	9.63	13.52	3.80	31.03	100

[1] Based on reports received on 2,013 institutions from among a total of 2,183.

TABLE 13.—PERCENT DISTRIBUTION OF COLLEGE STUDENTS BY RACE WITHIN REGION, FALL 1965 [1]

	New England	Mideast	Great Lakes	Plains	South	Southwest	Rocky Mountains	Far West
Majority	98.82	95.50	95.17	97.05	87.95	94.01	98.01	95.22
Negro	.69	3.70	3.57	2.20	11.48	4.47	.89	2.00
Other minority	.48	.80	1.25	.75	.56	1.52	1.10	2.78
Total	99.99	100.00	99.99	100.00	99.99	100.00	100.00	100.00

[1] Based on reports received on 2,013 institutions from among a total of 2,183.

TABLE 14.—STUDENT-FACULTY RATIO BY PERCENT OF NEGRO ENROLLMENT IN INSTITUTIONS OF HIGHER EDUCATION, FALL 1963

	Negro enrollment (percent)											
	0		0–2		2–5		5–10		10–50		50–100	
Control and region	Number of institutions	Weighted average	Number of institutions	Weighted average	Number of institutions	Weighted average	Number of institutions	Weighted average	Number of institutions	Weighted average	Number of institutions	Weighted average
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
Public institutions:												
North Atlantic	8	22	64	21	15	23	5	21	2	69	6	16
Great Lakes and Plains	41	22	91	21	27	22	7	21	10	33	2	23
South	24	18	66	19	13	19	21	22	3	21	28	17
Southwest	3	26	46	23	24	27	8	28	(1)	(1)	3	20
Rocky Mountains and Far West	12	21	83	26	22	32	8	40	2	36	(1)	(1)
Private institutions:												
North Atlantic	70	12	265	20	58	16	11	25	14	13	2	11
Great Lakes and Plains	54	13	249	16	59	17	20	27	8	21	1	20
South	86	18	117	16	15	18	4	14	1	18	48	15
Southwest	9	19	33	18	10	18	1	22	(1)	(1)	6	16
Rocky Mountains and Far West	17	15	90	17	20	19	4	25	1	2	(1)	(1)
All public institutions	88	21	350	22	101	25	49	25	17	35	39	17
All private institutions	236	16	754	18	162	17	40	25	24	18	57	15
All institutions	324	18	1,104	20	263	22	89	25	41	31	96	16

[1] Data not available.

TABLE 15.—PERCENT FACULTY WITH EARNED DOCTORATE BY PERCENT OF NEGRO ENROLLMENT IN INSTITUTIONS OF HIGHER EDUCATION, FALL 1963

	Negro enrollment (percent)											
	None		None to 2		2 to 5		5 to 10		10 to 50		50 to 100	
Control and region	Number of institutions	Weighted average	Number of institutions	Weighted average	Number of institutions	Weighted average	Number of institutions	Weighted average	Number of institutions	Weighted average	Number of institutions	Weighted average
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
Public institutions:												
North Atlantic	3	47	47	38	5	54	2	30	(1)	(1)	6	22
Great Lakes and Plains	2	46	49	41	12	28	2	23	2	42	2	34
South	12	29	49	30	12	32	3	26	1	17	18	19
Southwest	2	22	25	37	8	39	1	45	(1)	(1)	3	26
Rocky Mountains and Far West	4	37	32	40	2	27	1	32	(1)	(1)	(1)	(1)
Private institutions:												
North Atlantic	13	25	175	37	31	35	7	17	3	30	2	26
Great Lakes and Plains	10	32	179	30	35	26	6	23	4	29	1	27
South	31	32	78	32	12	23	2	28	1	33	28	29
Southwest	1	41	24	34	5	27	(1)	(1)	(1)	(1)	3	31
Rocky Mountains and Far West	8	22	67	38	15	35	3	25	(1)	(1)	(1)	(1)
All public institutions	23	36	202	37	39	35	9	28	3	34	29	21
All private institutions	63	30	523	34	98	31	18	20	8	30	34	29
All institutions	86	34	725	36	137	34	27	25	11	31	63	24

[1] Data not available.

3. Data from the senior students suggest that colleges do not narrow the gap in academic training between Negro and majority pupils; indeed, there is some evidence that the college curriculum increases this difference, at least in the South.

4. Substantial test score differences exist between Negro and white future teachers at both freshman and senior levels, with approximately 15 percent of Negroes exceeding the average score of majority students in the same region. (This figure varies considerably depending on the test, but in no case do as many as 25 percent of Negroes exceed the majority average.)

5. The test data indicate that the gap in test results widens in the South between the freshman and senior years. The significance of this finding lies in the fact that most Negro teachers are trained in the Southern States.

6. The preferences of future teachers for certain kinds of schools and certain kinds of pupils raise the question of the match between the expectations of teacher recruits and the characteristics of the employment opportunities.

The preferences of future teachers were also studied. Summarized in terms of market conditions, it seems apparent that far too many future teachers prefer to teach in an academic high school; that there is a far greater proportion of children of blue-collar workers than of teachers being produced who prefer to teach them; that there is a very substantial number of white teachers-in-training, even in the South, who prefer to teach in racially mixed schools; that very few future teachers of either race wish to teach in predominantly minority schools; and finally, that high-ability pupils are much more popular with future teachers than low-ability ones. The preferences of Negro future teachers are more compatible with the distribution of needs in the market than are those of the majority; too few of the latter, relative to the clientele requiring service, prefer blue-collar or low-ability children or prefer to teach in racially heterogeneous schools, or in special curriculum, vocational, or commercial schools. These data indicate that under the present organization of schools, relatively few of the best prepared future teachers will find their way into classrooms where they can offset some of the environmental disadvantage suffered by minority children.

TABLE 16.—AVERAGE ANNUAL SALARY, FULL PROFESSOR THROUGH INSTRUCTOR IN INSTITUTIONS OF HIGHER EDUCATION BY PERCENT OF NEGRO ENROLLMENT, FALL 1963

Control and region	Negro enrollment											
	0 percent		0–2 percent		2–5 percent		5–10 percent		10–50 percent		50–100 percent	
	Number of institutions	Weighted average	Number of institutions	Weighted average	Number of institutions	Weighted average	Number of institutions	Weighted average	Number of institutions	Weighted average	Number of institutions	Weighted average
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
Public institutions:												
North Atlantic	3	$8,577	38	$8,607	6	$10,601	2	$11,514	(1)	----------	5	$8,152
Great Lakes and Plains	2	8,268	43	8,777	11	9,417	2	8,687	1	10,005	2	8,185
South	11	7,296	45	7,992	13	7,838	3	6,959	1	6,784	19	6,583
Southwest	2	7,041	24	8,176	7	7,777	1	7,419	(1)	----------	2	6,806
Rocky Mountains and Far West	2	6,436	28	8,893	2	9,641	(1)	(1)	(1)	(1)	(1)	----------
Private institutions:												
North Atlantic	7	6,513	156	8,268	27	8,867	6	8,040	3	5,947	1	8,309
Great Lakes and Plains	7	6,336	147	7,781	30	7,872	5	7,145	4	7,895	(1)	(1)
South	25	6,421	63	7,543	8	6,340	3	6,047	(1)	(1)	19	5,974
Southwest	1	5,816	23	6,770	5	5,784	(1)	(1)	(1)	(1)	2	5,473
Rocky Mountains and Far West	1	5,470	50	8,448	9	7,107	1	7,302	(1)	(1)	(1)	(1)
All public institutions	20	7,573	178	8,491	39	9,112	8	9,248	2	8,754	28	6,824
All private institutions	41	6,379	439	7,964	79	8,175	15	7,640	7	7,352	22	6,652
All institutions	61	7,165	617	8,279	118	8,756	23	8,643	9	7,795	50	6,773

[1] Data not available.

School enrollment and dropouts

Another extensive study explored enrollment rates of children of various ages, races, and socio-economic categories using 1960 census data. The study included also an investigation of school dropouts using the October 1965 Current Population Survey of the Bureau of the Census. This survey uses a carefully selected sample of 35,000 households. It was a large enough sample to justify reliable nationwide estimates for the Negro minority but not for other minorities. In this section the word "white" includes the Mexican American and Puerto Rican minorities.

According to the estimates of the Current Population Survey, approximately 6,960,000 persons of ages 16 and 17 were living in the United States in October 1965. Of this number 300,000 (5 percent) were enrolled in college, and therefore, were not considered by this Census Bureau study. Of the remaining, approximately 10 percent, or 681,000 youth of 16 and 17, had left school prior to completion of high school.

The bottom line of table 17 shows that about 17 percent of Negro adolescents (ages 16 and 17) have dropped out of school whereas the corresponding number for white adolescents is 9 percent. The following table 18 shows that most of this difference comes from differences outside the South; in the South the white and Negro nonenrollment rates are much the same.

Table 19 is directed to the question of whether the dropout rate is different for different socio-economic levels. The data suggest that it is, for whereas the nonenrollment rate was 3 percent for those 16- and 17-year-olds from white-collar families, it was more than four times as large (13 percent) in the case of those from other than white-collar families (where the head of household was in a blue-collar or farm occupation, unemployed, or not in the labor force at all). Furthermore, this difference in nonenrollment by parental occupation existed for both male and female, Negro and white adolescents.

The racial differences in the dropout rate are thus sharply reduced when socioeconomic factors are taken into account. Then the difference of 8 percentage points between all Negro and white adolescent dropouts be-

TABLE 17.—ENROLLMENT STATUS OF PERSONS 16 AND 17 YEARS OLD NOT IN COLLEGE BY SEX AND RACE, FOR THE UNITED STATES, OCTOBER 1965

[Numbers in thousands. Figures are rounded to the nearest thousand without being adjusted to group totals, which are independently rounded.]

Enrollment status	Total	Both sexes		Male		Female	
		White	Negro	White	Negro	White	Negro
Total not in college, 16–17 years	6,661	5,886	775	3,001	372	2,885	403
Enrolled:							
Private school	588	562	26	281	11	281	15
Public school	5,198	4,588	610	2,363	299	2,225	311
Not enrolled:							
High school graduate	194	183	11	66	2	117	9
Non-high-school graduate	681	553	128	291	60	262	68
Nonenrollment rate [1]	10	9	17	19	16	9	17

[1] Percent "not enrolled, non-high-school graduates" are of "total not in college, 16–17 years."

TABLE 18.—ENROLLMENT STATUS OF PERSONS 16 AND 17 YEARS OLD NOT IN COLLEGE BY SEX, RACE, AND REGION OF RESIDENCE, FOR THE UNITED STATES, OCTOBER 1965

[Numbers in thousands]

Enrollment status and region of residence	Total	Both sexes		Male		Female	
		White	Negro	White	Negro	White	Negro
SOUTH							
Total not in college, 16–17 years	2,141	1,676	465	847	238	829	227
Enrolled:							
Private school	108	89	19	45	11	44	8
Public school	1,666	1,297	369	669	195	628	174
Not enrolled:							
High school graduate	36	29	7	8	0	21	7
Non-high-school graduate	331	261	70	125	32	136	38
Nonenrollment rate [1]	15	16	15	15	13	16	17
NORTH AND WEST							
Total not in college, 16–17 years	4,520	4,210	310	2,154	134	2,056	176
Enrolled:							
Private school	480	473	7	236	0	237	7
Public school	3,532	3,291	241	1,694	104	1,597	137
Not enrolled:							
High school graduate	158	154	4	58	2	96	2
Non-high-school graduate	350	292	58	166	28	126	30
Nonenrollment rate [1]	8	7	19	8	21	6	17

[1] Percent "not enrolled, non-high-school graduates" are of "total not in college, 16–17 years."

comes 1 percent for those in white-collar families, and 4 percent for those in other than white-collar families.

Table 20 breaks the data down by metropolitan and nonmetropolitan areas as well as by South and non-South. The largest differences between Negro and white dropout rates are seen in the urban North and West; in the nonurban North and West there were too few Negro households in the sample to provide a reliable estimate. In the South there is the unexpected result that in the urban areas, white girls drop out at a greater rate than Negro girls, and in the nonurban area white boys drop out at a substantially greater rate than Negro boys.

Relation of integration to achievement

An education in integrated schools can be expected to have major effects on attitudes toward members of other racial groups. At its best, it can develop attitudes appropriate to the integrated society these students will live in; at its worst, it can create hostile camps of Negroes and whites in the same school. Thus, there is more to "school integration" than merely putting Negroes and whites in the same building, and there may be more important consequences of integration than its effect on achievement.

Yet the analysis of school factors described earlier suggests that in the long run, integration should be expected to have a positive effect on Negro achievement as well. An analysis was carried out to seek such effects on achievement which might appear in the short run. This analysis of the test performance of Negro children in integrated schools indicates positive effects of integration, though rather small ones. Results for grades 6, 9, and 12 are given in table 21 for Negro pupils classified by the proportion of their classmates the previous year who were white. Comparing the averages in each row, in every case but one the highest average score is recorded for the Negro pupils where more than half of their classmates were white. But in reading the rows from left to right, the increase is small and often those Negro pupils in classes with only a few whites score lower than those in totally segregated classes.

Table 22 was constructed to observe whether there is any tendency for Negro pupils who have spent more years in integrated schools to exhibit higher average achievement. Those pupils who first entered integrated schools in the early grades record consistly higher scores than the other groups, although the differences are again small.

No account is taken in these tabulations of the fact that the various groups of pupils may have come from different backgrounds. When such account is taken by simple cross-tabulations on indicators of socioeconomic status, the performance in integrated schools and in schools integrated longer remains higher. Thus, although the differences are small, and although the degree of integration within the school is not known, there is evident, even in the short run, an effect of school integration on the reading and mathematics achievement of Negro pupils.

Tabulations of this kind are, of course, the simplest possible devices for seeking such effects. It is possible that more elaborate analyses looking more carefully at the special characteristics of the Negro pupils, and at different degrees of integration within schools that have similar racial composition, may reveal a more definite effect. Such analyses are among those that will be presented in subsequent reports.

Case studies of school integration

As part of the survey, two sets of case studies of school integration were commissioned. These case studies examine the progress of integration in individual cities and towns, and illustrate problems that have arisen not only in these communities but in many others as well. The complete case studies are maintained on file at the Office of Education. In addition publication of all or some of the reports by their authors will be carried out through commercial publishers.

In the main report, excerpts from these case studies are presented to illustrate certain recurrent problems. A paragraph which introduces each of these excerpts is given below, showing the kinds of problems covered.

Lack of racial information.—In certain communities, the lack of information as to the number of children of minority groups and of minority group teachers, their location and mobility, has made assessment of the equality of educational opportunity difficult. In one city, for example, after a free transfer plan was initiated, no records as to race of students were kept, thereby making any evaluation of the procedure subjective only. Superintendents, principals, and school boards sometimes respond by declaring racial records themselves to be a mark of discrimination.

A narrative of "the racial headcount problem" and the response to the search for a solution is given in the excerpt from the report on San Francisco.

Performance of minority group children.—One of the real handicaps to an effective assessment of equality of education for children of minority groups is the fact that few communities have given systematic testing and fewer still have evaluated the academic performance and attitudes of these children toward education. Yet quality of education is to be estimated as much by its consequences as by the records of the age of buildings and data on faculty-student ratio. A guide to cities now planning such assessment is a pupil profile conducted in Evanston, Ill.

TABLE 19.—ENROLLMENT STATUS OF PERSONS 16 AND 17 YEARS OLD BY SEX, RACE, AND OCCUPATION OF HOUSEHOLD HEAD, FOR THE UNITED STATES: OCTOBER 1965

[Numbers in thousands. Percent not shown where base is less than 40,000]

Enrollment status and occupation of household head	Total	Both sexes		Male		Female	
		White	Negro	White	Negro	White	Negro
WHITE COLLAR							
Total not in college, 16–17 years	2,065	2,017	48	1,081	31	936	17
Enrolled:							
Private school	275	257	18	135	11	122	7
Public school	1,680	1,654	26	893	18	762	8
Not enrolled:							
High school graduate	44	42	2	14	2	28	0
Non-high-school graduate	65	63	2	39	0	24	2
Nonenrollment rate [1]	3	3	4	4		3	
NOT WHITE COLLAR							
Total not in college, 16–17 years	4,596	3,869	727	1,920	341	1,949	386
Enrolled:							
Private school	313	305	8	146	0	159	8
Public school	3,517	2,933	584	1,470	281	1,463	303
Not enrolled:							
High school graduate	150	141	9	52	0	89	9
Non-high-school graduate	616	490	126	252	660	238	66
Nonenrollment rate [1]	13	13	17	13	18	12	17

[1] Percent "not enrolled, non-high-school graduates" are of "total not in college, 16–17 years."

TABLE 20.—NONENROLLMENT RATES OF PERSONS 16 AND 17 YEARS OLD NOT IN COLLEGE BY SEX, RACE, TYPE OF AREA, AND REGION OF RESIDENCE, FOR THE UNITED STATES: OCTOBER 1965

[Number in thousands. Percent not shown where base is less than 50,000]

Nonenrollment rate, type of area, and region of residence	Total	Both sexes		Male		Female	
		White	Negro	White	Negro	White	Negro
METROPOLITAN SOUTH							
Total not in college, 16–17 years	715	545	170	295	95	250	75
Nonenrollment rate [1]	10	9	12	4	14	16	11
METROPOLITAN NORTH AND WEST							
Total not in college, 16–17 years	2,576	2,301	275	1,237	124	1,064	151
Nonenrollment rate [1]	8	6	20	7	23	6	17
NONMETROPOLITAN SOUTH							
Total not in college, 16–17 years	1,426	1,131	295	552	143	579	152
Nonenrollment rate [1]	18	19	17	21	13	17	20
NONMETROPOLITAN NORTH AND WEST							
Total not in college, 16–17 years	1,944	1,909	35	917	10	992	25
Nonenrollment rate [1]	8	8		9		7	

[1] Percent "not enrolled, non-high-school graduates" are of "total not in college, 16–17 years."

In 1964, the Director of Research and Testing for District 65 gathered and analyzed data on "ability" and "achievement" for 136 Negro children who had been in continuous attendance at either Central, Dewey, Foster, or Noyes school through the primary years. A group of 132 white children in continuous attendance for the same period at two white primary schools was compared. Seven different measures from kindergarten through seventh grade were correlated and combined by reducing all measures to stanines. The excerpt from the Evanston report examines in detail the performance of these two groups of children.

Compliance in a small community.—Many large metropolitan areas North and South are moving toward resegregation despite attempts by school boards and city administrations to reverse the trend. Racial housing concentration in large cities has reinforced neighborhood school patterns of racial isolation while, at the same time, many white families have moved to the suburbs and other families have taken their children out of the public school system, enrolling them instead in private and parochial schools. Small towns and medium-sized areas, North and South, on the other hand, are to some extent desegregating their schools.

TABLE 21.—AVERAGE TEST SCORES OF NEGRO PUPILS, FALL 1965

Grade	Region	Reading comprehension—Proportion of white classmates last year				Math achievement—Proportion of white classmates last year			
		None	Less than half	Half	More than half	None	Less than half	Half	More than half
12	Metropolitan Northeast	46.0	43.7	44.5	47.5	41.5	40.6	41.1	44.5
12	Metropolitan Midwest	46.4	43.2	44.0	46.7	43.8	42.6	42.9	44.8
9	Metropolitan Northeast	44.2	44.8	44.8	47.1	43.1	43.5	43.7	47.2
9	Metropolitan Midwest	45.3	45.2	45.3	46.4	44.4	44.3	44.1	46.6
6	Metropolitan Northeast	46.0	45.4	45.8	46.6	44.0	43.4	43.6	45.6
6	Metropolitan Midwest	46.0	44.7	44.9	45.1	43.8	42.8	42.9	44.1

TABLE 22.—AVERAGE TEST SCORES OF NEGRO PUPILS, FALL 1965

Grade	Region	Grade of 1st time with majority pupils	Proportion of majority classmates last year				
			None	Less than half	Half	More than half	Total
9	Metropolitan Northeast	1, 2, or 3	45.9	46.7	46.9	48.1	46.8
		4, 5, or 6	45.2	43.3	44.4	44.4	44.8
		7, 8, or 9	43.5	42.9	44.6	4.50	44.0
		Never	43.2				43.2
9	Metropolitan Midwest	1, 2, or 3	45.4	46.6	46.4	48.6	46.7
		4, 5, or 6	44.4	44.1	45.3	46.7	44.5
		7, 8, or 9	44.4	43.4	43.3	45.2	43.7
		Never	46.5				46.5
12	Metropolitan Northeast	1, 2, or 3	40.8	43.6	45.2	48.6	46.2
		4, 5, or 6	46.7	45.1	44.9	46.7	45.6
		7, 8, or 9	42.2	43.5	43.8	49.7	48.2
		10, 11, or 12	42.2	41.1	43.2	46.6	44.1
		Never	40.9				40.9
12	Metropolitan Midwest	1, 2, or 3	47.4	44.3	45.6	48.3	46.7
		4, 5, or 6	46.1	43.0	43.5	46.4	45.2
		7, 8, or 9	46.6	40.8	42.3	45.6	45.5
		10, 11, or 12	44.8	39.5	43.5	44.9	43.3
		Never	47.2				47.2

In the Deep South, where there has been total school segregation for generations, there are signs of compliance within a number of school systems. The emphasis on open enrollment and freedom-of-choice plans, however, has tended to lead to token enrollment of Negroes in previously white schools. In school systems integrated at some grade levels but not at others, the choice of high school grades rather than elementary grades has tended further to cut down on the number of Negroes choosing to transfer because of the reluctance to take extra risks close to graduation.

The move toward compliance is described in the excerpt from the report of one small Mississippi town.

A voluntary transfer plan for racial balance in elementary schools.—The public schools are more rigidly segregated at the elementary level than in the higher grades. In the large cities, elementary schools have customarily made assignments in terms of neighborhood boundaries. Housing segregation has, therefore, tended to build a segregated elementary school system in most cities in the North and, increasingly, in the South as well, where *de facto* segregation is replacing *de jure* segregation.

Various communities have been struggling to find ways to achieve greater racial balance while retaining the neighborhood school. Bussing, pairing, redistricting, consolidating, and many other strategies have been tried. Many have failed; others have achieved at least partial success. In New Haven, Conn., considerable vigor has been applied to the problem: Whereas pairing was tried at the junior high level introducing compulsory integration, a voluntary transfer plan was implemented at the elementary level. Relief of overcrowding was given as the central intent of the transfer plan, but greater racial balance was achieved since it was the Negro schools that were overcrowded. With the provision of new school buildings, however, this indirect stimulus to desegregation will not be present. In New Haven the transfer plan was more effective than in many other communities because of commitment of school leadership, active solicitation of transfers by door-to-door visits, provision of transportation for those transferring, teacher cooperation, heterogeneous grouping in the classrooms, and other factors.

The original plan provided that a student could apply to any one of a cluster of several elementary schools within a designated "cluster district," and the application would be approved on the basis of availability of space, effect on racial balance and certain unspecified educational factors; that students "presently enrolled" at a particular school would be given priority; and that transportation would be provided where necessary.

Desegregation by redistricting at the junior high school level.—The junior high schools, customarily grades seven to nine, have been the focus of considerable effort and tension in desegregation plans in many communities. With most areas clinging to the neighborhood school at the elementary level with resultant patterns of racial concentration, and with high schools already more integrated because of their lesser reliance upon neighborhood boundaries and their prior consolidation to achieve maximum resources, junior high schools have been a natural place to start desegregation plans. Like the elementary schools, they have in the past been assigned students on the basis of geography; but on the other hand, they tend to represent some degree of consolidation in that children from several elementary schools feed one junior high school. Further, parental pressures have been less severe for the maintenance of rigid neighborhood boundaries than at the elementary level.

Pairing of two junior high schools to achieve greater racial balance has been tried in a number of communities. Redistricting or redrawing the boundaries of areas that feed the schools has been tried in other areas. In Berkeley, Calif., after considerable community tension and struggle, a plan was put into effect that desegregated all three junior high schools (one had been desegregated previously). All the ninth graders were sent to a single school, previously Negro, and the seventh and eighth graders were assigned to the other two schools. The new ninth grade school was given a new name to signal its new identity in the eyes of the community. The excerpt describes the period following initation of this plan and the differential success of integration in the different schools.

A plan for racial balance at the high school level.—In a number of communities, students are assigned to high schools on the basis of area of residence and hence racial imbalance is continued. In Pasadena, Calif., a plan was initiated to redress this imbalance by opening places in the schools to allow the transfer of Negroes to the predominantly white

high school. A measure of success was achieved but only after much resistance. Of interest particularly in this situation was the legal opinion that attempts to achieve racial balance were violations of the Constitution and that race could not be considered as a factor in school districting. Apparently previous racial concentration, aided by districting, had not been so regarded, yet attempts at desegregation were. The school board found its task made more difficult by such legal maneuvering. The excerpt describes the deliberations and controversy in the school board, and the impact of the court decision, which finally upheld the policy of transfers to achieve racial balance.

Segregation at a vocational school.—The Washburne Trade School in Chicago seems to be effectively segregated by virtue of the practices and customs of the trade unions, whose apprenticeship programs have been characterized by racial isolation. Washburne has presented the same picture since its founding in 1919 after the passage of the Smith-Hughes Act by Congress. That act provides for the creation of apprenticeship programs in which skilled workers are trained both in school and on the job. For example, a young man who wishes to be certified as a plumber may work at his job 4 days a week and attend a formal training program at least 1 day or more or evenings a week.

The apprenticeship programs are heavily financed and regulated by the Federal Government through the Department of Labor and the Department of Health, Education, and Welfare. In recent years the regulations have focused increasingly upon racial segregation within the union structures. One of the causes for this concern has been the rather discouraging racial pattern in the apprenticeship schools. Washburne seems to preserve that pattern. In 1960 an informal estimate showed that fewer than 1 percent of the 2,700 Washburne students were Negroes. Half of the apprenticeship programs conducted at the school had no Negroes whatsoever. This excerpt describes the state of racial segregation at Washburne and at Chicago's vocational schools.

Relation of a university to school desegregation.—Education is a continuum—from kindergarten through college—and increasingly public school desegregation plans are having an impact on colleges in the same area, particularly those colleges which are city or state supported. Free tuition, as in the New York City colleges, has no meaning for members of minority groups who have dropped out of school in high school and little meaning for those whose level of achievement is too low to permit work at the college level. A number of colleges, through summer tutorials and selective admittance of students whose grades would otherwise exclude them, are trying to redress this indirect form of racial imbalance.

In Newark, Del., the pressures for desegregation in the public schools have had an effect on the nearby University of Delaware indicated by the following excerpt:

"There are striking parallels in reactions to integration among Newark's civic agencies, school district, and the University of Delaware. Because the university plays such a large part in Newark's affairs, this excerpt examines its problems with school integration."

* * * * *

This section concludes the summary report on the survey; the summary report is the first section of the full report, and it is also printed separately for those who desire only an overview of the main findings of the survey. The full report contains a great deal of detailed data from which a small amount has been selected for this summary. It also contains a full description of the statistical analysis which explored the relationships between educational achievement and school characteristics.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield to the Senator from Minnesota.

Mr. MONDALE. The Senator from Connecticut has been most generous with me. I wish to conclude this colloquy by saying there is no Member of the Senate whose commitment to the cause of human rights is more clear or more complete than that of the Senator from Connecticut. I hope that nothing I say will be construed in any way to diminish my profound respect for his commitment to that cause.

I ask unanimous consent to have printed in the RECORD at this point a letter from the Commissioner of Education, Mr. Allen, dated February 6, 1970, which underscores the point I have made.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., February 6, 1970.

Hon. CLAIBORNE PELL,
Chairman, Subcommittee on Education, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR SENATOR PELL: This is in response to the Committee's request for the views of the Department of Health, Education, and Welfare with respect to several amendments proposed to H.R. 514, an Act to extend programs of assistance for elementary and secondary education, and for other purposes.

The proposed amendments deal with a serious educational matter, the subject of school desegregation. They would affect the enforcement of the non-discrimination requirements of Title VI of the Civil Rights Act of 1964 and, as a result, would affect the educational opportunities of children.

As an educator, I am convinced that segregation by races in our Nation's schools for any reason is unsound educationally, regardless of geography. The elimination of segregated schools is not just a legal requirement, it is fundamental to the ultimate provision of quality education for all children. This is the time to see that desegregation of schools is carried out in a manner that preserves and enhances the quality of education. It is for this reason that the Department is giving high priority to the provision of technical assistance nationwide to State and local education agencies through Title IV of the Civil Rights Act of 1964, services which are intended to aid officials in seeking the best local solution within the meaning of the law without restrictions such as contained in these amendments. We soon shall be seeking a supplemental appropriation under this authority to expand such services.

With regard to the specific legal impact of these amendments, I am advised by the Department's Office for Civil Rights that the amendments numbered 462, 469 (sections of which are also printed separately), and 481 are essentially similar to the so-called Whitten Amendments which the Department opposed and which the Congress debated thoroughly last year in connection with the FY 1970 Labor-HEW Appropriations Bill. The Department continues to oppose such proposals because they not only conflict with the decision sof the Supreme Court but further would seriously restrict the enforcement efforts under Title VI to eliminate discrimination.

I am also advised with respect to the Amendment No. 463, that serious questions arise as to the legal effect and implications of the provision, and specifically whether the section does in fact amend Title VI of the Civil Rights Act of 1964. In line with the intent of Congress, Title VI and its "guidelines and criteria" currently apply to discrimination, and they have been applied uniformly throughout the Nation. The amendment, however, speaks in terms of "segregation", which is left undefined. Title VI also applies to discrimination as to color and national origin, which reference is omitted in the amendment. It also appears that the amendment conflicts with the provisions of other acts of Congress which, for example, limit the Department's authority to deal with situations of "racial imbalance". And, notwithstanding the varying interpretations which may be attached to the provision, the legal consequence of a policy declaration of this nature is uncertain.

In summary, the Department's position is that (1) the elimination of racial segregation in education is essential wherever it exists in our Nation; (2) Amendments 462, 469, and 481 are opposed by the Department; and (3) Amendment 463 should be more thoroughly considered by the appropriate committees of the Congress so that the nature and consequences of any legislative action of this kind may be more accurately defined and understood.

Sincerely,

JAMES E. ALLEN, Jr.,
Assistant Secretary for Education and U.S. Commissioner of Education.

Mr. MONDALE. Commissioner Allen also opposes the pending amendment offered by the Senator from Mississippi, on the ground that its nature is uncertain and, in effect, as I had argued earlier, there would be no way of knowing what to do with it if it were adopted.

Mr. JORDAN of North Carolina. Mr. President, will the Senator yield so that I may ask a question of the Senator from Minnesota?

Mr. RIBICOFF. I yield.

Mr. JORDAN of North Carolina. The Senator from Minnesota has said that, under present law, school busing is illegal. I believe that is what he said earlier.

Mr. MONDALE. As it relates to racial imbalance.

Mr. JORDAN of North Carolina. That reminds me of the story about the fellow who called up his lawyer and told him about his predicament. His lawyer said, "They can't put you in jail for that."

The fellow replied, "But I'm talking to you from the jailhouse now. I'm already in the jailhouse."

That is exactly what they are doing and are not paying attention to the law at all.

I will give the Senator an example. The city of Charlotte now is under a court order to buy enough buses to bus the schoolchildren of the city of Charlotte. That will require 500 buses by April 1. They have only 300 buses now. That means they will have to bus 10,000 elementary schoolchildren from one part of the city to another. It will mean they will have to take high school children out of the city of Charlotte and haul them into the country. The city is un-

der a court order now to abide by it by April 1. April 1 is not far off.

In the first place, they cannot find 500 buses. They cannot get 500 buses. And if they could, they do not have the money to pay for them. They are not going to have a bond issue to buy more buses. That would be silly and stupid. They are not going to do that, not if I can help it. The 2,600 elementary schoolchildren will have to be moved, simply to mix color.

The Senator says they cannot bus them, but they do.

The city of Winston-Salem also is under a court order, as of February 1. They had to move 422 teachers in different schools, right in the middle of the school year. A teacher goes to another school and does not know a pupil, and the pupils do not know the teacher. The schools in that county have been wrecked. It is simply for the purpose of bringing about compliance.

They will not allow freedom of choice. They say, "You cannot do that, either."

They have said, "Let a child go to school here if he wants to, black or white."

They said, "It is illegal. We are going to move you whether you want to move or not."

If a child lives within a block of a school, they say they are going to move him 3 or 4 miles for the sake of mixing. That is what is happening in North Carolina. But it is not happening in other places.

All we say is this: If they have a law in New York State that they like and are abiding by it, give us the same thing. We do not ask for anything different. We say the New York law is satisfactory to us.

Mr. MONDALE. Mr. President, will the Senator yield, in order to permit me to answer the Senator from North Carolina?

Mr. RIBICOFF. I have agreed to yield first to the distinguished Senator from Mississippi and then to the distinguished Senator from New York.

Mr. STENNIS. I thank the Senator for yielding to me. I wish to make a brief statement in response to the Senator from Minnesota.

Mr. President, it has been said that this amendment would leave HEW without proper guidance or without proper authority or any requirements. I think it should be stated again, for the record, how the matter of obtaining money works now outside the South and how it works in the South.

Outside the South, with these few exceptions, you do not have to prove anything; you do not have to submit a plan; you are just presumed to be innocent, and they send you the money. They have cards on record for that district. But in the South—that is where the so-called de jure stigma and blight are—HEW never mentions busing as such. It is never in one of their orders. It is never in one of their direct requirements.

Do not tell me I am totally wrong on this, because I have dealt directly with those men at the so-called working level. I understand that their uniform practice is that they never write out a requirement or a plan for a school district that is trying to get its money. They let that district know, "If you will propose so-and-so, we will approve the plan on that basis." The trustees then have to come in and make a proposal. That proposal, indirectly demanded, or impliedly demanded, to use a softer word, by HEW is such that there is no way to carry it out except by busing. As I understand, it never mentions a ratio of races, but it is in there, even though it is not mentioned by name. It requires a certain amount of mixing and requires a certain amount of busing in order to carry it out. That is what they do, and they get their money.

On the other hand, outside the South, HEW takes the high and holy ground that Congress has prohibited them from requiring any busing. They take the further holy ground that there is nothing the matter outside the South, because they have never had the so-called de jure system. That is the practical way this works.

This amendment would go right to the heart of the matter and say, "Whatever you require in your guidelines, certain criteria under this law, would have to be applied uniformly in all regions, and it would be without regard to the origin or cause of such segregation."

That is the very point the Senator from Connecticut has spoken to, and without those words in there, we will have just more and more of the same. Outside the South they will get their money, with few exceptions, and we will get what we have been getting.

Mr. RIBICOFF. Mr. President, I yield, without losing my right to the floor, to the Senator from West Virginia, for a unanimous-consent request.

ORDER FOR ADJOURNMENT TO 9:30 A.M. TOMORROW, ORDER FOR RECOGNITION OF SENATOR YOUNG OF OHIO TOMORROW, ORDER FOR TRANSACTION OF MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. I thank the able Senator for yielding.

Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 9:30 o'clock tomorrow morning; that immediately following the prayer and the disposition of the reading of the Journal on tomorrow morning, the able senior Senator from Ohio (Mr. YOUNG) be recognized for not to exceed 20 minutes; that at the conclusion of his speech there be a period for the transaction of routine morning business, with statements therein limited to 3 minutes; and that at the conclusion of the transaction of morning business, the unfinished business be immediately laid down.

Mr. JAVITS. Mr. President, reserving the right to object—and I shall not object—but just for the purpose of asking the Senator a question: What does the leadership consider the existing situation to be?

We had hoped for a vote this afternoon at 3 o'clock. So far as I know, many Senators may be leaving for the Lincoln holiday. Does the leadership expect to have any votes tonight or tomorrow?

Mr. PELL. As manager of the bill, if I may speak at this time, I should like to see us move ahead with votes, obviously, and hope we can.

Mr. BYRD of West Virginia. Mr. President, I think I am authorized by the leadership to say that it is hoped that we will have a vote or some votes on tomorrow. I do not think we can expect to vote today. We are already in the shank of the afternoon. I have a speech which is perhaps 45 minutes to 1 hour or more in length. I think some other Senators also desire to speak.

That being the case, I do not feel that we will have any votes today. But it is the hope of the leadership that enough Senators will be on hand tomorrow to have a vote or some votes.

I think I would be correct in saying, in the majority leader's behalf, that all of us have a responsibility to stay here and do our job and be on hand if there are votes or live quorums, and then we will adjourn tomorrow evening for the holiday recess.

Mr. JAVITS. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

(Later in the day, the Senate modified its order, and provided for an adjournment to 9 a.m. tomorrow.)

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1969

The Senate continued with the consideration of the bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. JAVITS. I ask the Senator to yield only so that the facts will be spread of record about the matter we have been discussing.

There has been a general assumption that the figures in the North and the figures in the South are the same. I hasten to add that there is no excuse for any doubt. But I think it is very important that we do have some authoritative figures of record. HEW issued a statement on January 4, 1970, which analyzes the situation as to attendance in school by Negroes, which have various percentages of minorities, but primarily Negroes attending there. In other words, what is the character of the segregation problem?

Mr. President, I ask unanimous consent that the entire table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1-A.—NEGROES BY STATE

[Number and percentage attending school at increasing levels of isolation fall, 1968 elementary and secondary school survey]

State	Total number of students	Total number of Negro students	Percent of total students	Negroes attending 0-49.9 percent minority schools		50-100 percent minority schools		95-100 percent minority schools		99-100 percent minority schools		100 percent minority schools	
				Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Continental United States	43,353,567	6,282,173	14.5	1,467,291	23.4	4,814,881	76.6	3,832,843	61.0	3,331,404	53.0	2,493,398	39.7
Alabama	770,523	269,248	34.9	22,308	8.3	246,940	91.7	244,693	90.9	243,269	90.4	230,448	85.6
Alaska	71,797	2,119	3.0	2,119	100.0	0	.0	0	.0	0	.0	0	.0
Arizona	366,459	15,783	4.3	5,272	33.4	10,511	66.6	4,349	27.6	3,344	21.2	790	5.0
Arkansas	415,613	106,533	25.6	24,091	22.6	82,442	77.4	78,901	74.1	77,703	72.9	75,797	71.1
California	4,477,381	387,978	8.7	87,255	22.5	300,723	77.5	185,562	47.8	115,890	29.9	27,986	7.2
Colorado	519,092	17,797	3.4	5,432	30.5	12,365	69.5	8,017	45.0	2,862	16.1	0	.0
Connecticut	632,361	52,550	8.3	22,768	43.3	29,782	56.7	9,601	18.3	2,254	4.3	328	.6
Delaware	123,863	24,016	19.4	13,025	54.2	10,991	45.8	5,177	21.6	593	4.0	0	.0
District of Columbia	148,725	139,006	93.5	1,253	.9	137,753	99.1	123,939	89.2	95,608	68.8	38,701	27.8
Florida	1,340,665	311,491	23.2	72,333	23.2	239,158	76.8	224,729	72.1	215,824	69.3	184,074	59.1
Georgia	1,001,245	314,918	31.5	44,201	14.0	270,717	86.0	262,689	83.4	259,891	82.5	240,532	76.4
Idaho	174,472	415	.2	415	100.0	0	.0	0	.0	0	.0	0	.0
Illinois	2,252,321	406,351	18.0	55,367	13.6	350,984	86.4	294,066	72.4	252,225	62.1	156,869	38.6
Indiana	1,210,539	106,178	8.8	31,833	30.0	74,345	70.0	46,208	43.5	37,664	35.5	13,597	12.8
Iowa	651,705	9,567	1.5	6,994	73.1	2,573	26.9	340	3.6	340	3.6	0	.0
Kansas	518,733	30,834	5.9	16,479	53.4	14,355	46.6	9,820	31.8	6,264	20.3	2,327	7.5
Kentucky	695,611	63,996	9.2	34,389	53.7	29,606	46.3	17,025	26.6	9,021	14.1	3,342	5.2
Louisiana	817,000	317,268	38.8	28,177	8.9	289,091	91.1	279,614	88.1	278,620	87.8	259,897	81.9
Maine	220,336	1,429	.6	389	27.2	1,040	72.8	0	.0	0	.0	0	.0
Maryland	859,440	201,435	23.4	62,670	31.1	138,765	68.9	105,886	52.6	92,030	45.7	62,898	31.2
Massachusetts	1,097,221	46,675	4.3	23,916	51.2	22,759	48.8	8,558	18.3	4,936	10.6	79	.2
Michigan	2,073,369	275,878	13.3	56,840	20.6	219,038	79.4	128,116	46.4	78,319	28.4	24,720	9.0
Minnesota	856,506	9,010	1.1	7,116	79.0	1,894	21.0	361	4.0	0	.0	0	.0
Mississippi	456,532	223,784	49.0	15,000	6.7	208,784	93.3	207,515	92.7	206,736	92.4	197,447	88.2
Missouri	954,596	138,412	14.5	33,996	24.6	104,416	75.4	91,355	66.0	77,676	56.1	46,285	33.4
Montana	127,059	102	.1	102	100.0	0	.0	0	.0	0	.0	0	.0
Nebraska	266,342	12,340	4.6	3,364	27.3	8,976	72.7	4,321	35.0	674	5.5	0	.0
Nevada	119,180	9,189	7.7	4,883	53.1	4,306	46.9	3,626	39.5	699	7.6	0	.0
New Hampshire	132,212	537	.4	537	100.0	0	.0	0	.0	0	.0	0	.0
New Jersey	1,401,925	208,481	14.9	70,628	33.9	137,853	66.1	68,434	32.8	37,827	18.1	15,245	7.3
New Mexico	271,040	5,658	2.1	2,712	47.9	2,946	52.1	901	15.9	574	10.1	394	7.0
New York	3,364,090	473,253	14.1	152,868	32.3	320,385	67.7	169,401	35.8	100,899	21.3	35,637	7.5
North Carolina	1,199,481	352,151	29.4	99,679	28.3	252,472	71.7	229,393	65.1	227,057	64.5	207,742	59.0
North Dakota	115,995	458	.4	458	100.0	0	.0	0	.0	0	.0	0	.0
Ohio	2,400,296	287,440	12.0	79,762	27.7	207,678	72.3	123,127	42.8	93,775	32.6	37,861	13.2
Oklahoma	543,501	48,861	9.0	18,472	37.8	30,389	62.2	23,610	48.3	18,715	38.3	8,437	17.3
Oregon	455,141	7,413	1.6	4,689	63.3	2,724	36.7	0	.0	0	.0	0	.0
Pennsylvania	2,296,011	268,514	11.7	73,901	27.5	194,614	72.5	118,449	44.1	87,064	32.4	11,756	4.4
Rhode Island	172,264	8,047	4.7	7,196	89.4	851	10.6	0	.0	0	.0	0	.0
South Carolina	603,542	238,036	39.4	33,811	14.2	204,225	85.8	200,188	84.1	199,752	83.9	188,666	79.3
South Dakota	146,407	384	.3	360	93.7	24	6.3	12	3.1	0	.0	0	.0
Tennessee	887,469	184,692	20.8	39,240	21.2	145,453	78.8	132,208	71.6	123,468	66.9	108,425	58.7
Texas	2,510,358	379,813	15.1	95,931	25.3	283,882	74.7	239,540	63.1	208,021	54.8	165,249	43.5
Utah	303,152	1,486	.5	1,098	73.9	388	26.1	0	.0	0	.0	0	.0
Vermont	73,570	90	.1	90	100.0	0	.0	0	.0	0	.0	0	.0
Virginia	1,041,057	245,026	23.5	65,922	26.9	179,104	73.1	167,172	68.2	161,321	65.8	142,209	58.0
Washington	791,260	19,145	2.4	12,299	64.2	6,846	35.8	0	.0	0	.0	0	.0
West Virginia	404,582	20,431	5.0	16,763	82.0	3,668	18.0	1,157	5.7	841	4.1	841	4.1
Wisconsin	942,441	37,289	4.0	8,406	22.5	28,883	77.5	14,783	39.6	9,288	24.9	4,819	12.9
Wyoming	79,091	665	.8	482	72.5	183	27.5	0	.0	0	.0	0	.0

*Minute differences between sum of numbers and totals are due to computer rounding.

Mr. JAVITS. Mr. President, this table shows, for whatever it is worth, and I think it is very important, that in a State like Mississippi, Negroes attend schools—although the population of Mississippi is almost 50 percent Negro—in the minority schools where the minority represents 0 to 49 percent of the school population to the extent of 6.7 percent of its students; whereas in New York—and I am not proud of the fact, but it is their figure—the same is 32.3 percent of the students. That is, roughly speaking, 3½ times as good.

At the other end of the scale—that is attending schools—let us take the schools where the minority is 99 to 100 percent, allowing for few children of a different race, it mentions 92.4 percent of black children attending that kind of school. In New York, 21.3 percent attend that kind of school. The figures are roughly comparable in other States. I hasten to state——

Mr. ERVIN. Will the Senator repeat that number of Negro children?

Mr. JAVITS. It is 21.3 percent attending schools where the minority population school is 99 to 100 percent.

Mr. ERVIN. That is one-fifth.

Mr. JAVITS. It is 21.3 percent. In Mississippi that figure is 92.4 percent. I will be glad to give the figure for South Carolina. It is 83.9 percent.

Mr. RUSSELL. The Senator comes from North Carolina.

Mr. JAVITS. Oh, yes. For North Carolina—I am sorry—the figure is 64.5 percent.

Mr. HOLLAND. What about Florida?

Mr. JAVITS. It is 69.3 percent in Florida.

Now, Mr. President, I am not arguing the morality or the justice of this situation, because I think we have explored that thoroughly, but I think it was fair to have an authoritative figure of record as to the size of the problem on how much progress has been made in de jure and de facto States.

Mr. RIBICOFF. Mr. President, I yield the floor.

Mr. THURMOND. Mr. President, will the Senator from Connecticut yield?

Mr. RIBICOFF. I have yielded the floor.

Mr. BYRD of West Virginia. Mr. President, the Senator from Connecticut just yielded the floor. I have the floor. Does the Senator from South Carolina wish me to yield to him?

Mr. THURMOND. That is all right. I withdraw my request.

Mr. BYRD of West Virginia. I will be glad to yield to the Senator from South Carolina.

Mr. President, first, I wish to congratulate the able Senator from Connecticut (Mr. RIBICOFF) on a very eloquent, courageous, forthright, enlightening, and honest speech. It was a commonsense speech, well considered and well delivered. He has contributed a great service to the Senate and to the Nation.

Mr. President, I support amendment No. 481.

First I should like to read that amendment:

On page 45, between lines 4 and 5, insert the following new section:

"DISCRIMINATION ON ACCOUNT OF RACE, CREED, COLOR, OR NATIONAL ORIGIN PROHIBITED

"SEC. 2 (a) No person shall be refused admission into or be excluded from any public school in any State on account of race, creed, color, or national origin.

"(b) Except with the express approval of a board of education legally constituted in any State or the District of Columbia and having jurisdiction, no student shall be assigned or compelled to attend any school on account of race, creed, color, or national origin, or for the purpose of achieving equality in attendance or increased attendance or reduced attendance, at any school, of persons of one or more particular races, creeds, colors, or national origins; and no school

district, school zone, or attendance unit, by whatever name known, shall be established, reorganized, or maintained for any such purpose: *Provided*, That nothing contained in this Act or any other provision of Federal law shall prevent the assignment of a pupil in the manner requested or authorized by his parents or guardian."

Mr. President, about 15 years ago the Supreme Court, in the now famous Brown cases—Brown I and Brown II, so called—held that State-imposed racial segregation in public schools deprived the pupils of equal protection of the laws under the 14th amendment to the Concontution. In Brown I—*Brown et al* v. *Board of Education of Topeka et al*, 347 U.S. 43 (1954)—the Court reconsidered the former "separate but equal" doctrine of *Plessy* v. *Ferguson*, 163 U.S. 537, not as to "equality" but as to the effect of "segregation itself on public education."

The only holding in the Brown case, really, was that State-imposed racial segregation deprived plaintiffs of equal protection under the 14th amendment, which directs that—

No State shall . . . deny to any person within its jurisdiction the equal protection of the laws.

The following is particularly important in considering this matter: the Court in Brown commented that—

Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is the principle instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.

Thus, the Court concluded, that to separate children from other children of similar age and qualification solely because of race generates feelings of inferiority and may affect the hearts and minds of children in a lasting way. The Court alleged that the proposition was supported by "modern psychological authority," a somewhat dubious basis, perhaps, concluding that "separate educational facilities are inherently unequal" and that "such segregation" is a denial of equal protection.

It is important to note that, in the above opinion, the Court not once used or even referred to the term "integration," much less "forced integration." The opinion was solely devoted to State-enforced segregation.

Brown II.—*Brown et al.* v. *Board of Education of Topeka, et al.*, 349 U.S. 294 (1955)—as interested persons will recall, enjoined that authorities concerned should proceed "with all deliberate speed" to admit students to public schools on a "racially nondiscriminatory basis," this injunction following the *Bolling* v. *Sharpe* case, 347 U.S. 497 (1954), involving the District of Columbia schools, which held that classification based "solely" on race must be especially scrutinized. The Bolling case outlawed forced segregation, but nowhere in any of these opinions, is there a statement to the effect that forced integration is legally required or indeed proper under the Constitution.

Ethical and reasonable men, regardless of their inner feelings about this proposition, may well agree that the Supreme Court's decisions in these cases—even though they were contrary to precedent and even though public education should be administered and controlled by the States—were called for by the Constitution. In short, we may agree that forced segregation—that is, segregation imposed by law—is illegal and wrong under our scheme of government. This, however, is a far cry indeed from saying—or agreeing—that it is legal or proper to impose forced integration on any class or group. And yet, one cannot but feel that this is what the Court—and, without question, the Department of Health, Education, and Welfare—have now come to say: that not only must public schools, formerly segregated by law, no longer place such restrictions on pupils by law, but further, and beyond this, they must also take active steps—by force if necessary—to integrate. A brief consideration of the Supreme Court's progression to this way of thinking may be useful.

Following the two Brown cases and Bolling against Sharpe, the Court spoke in no less than 15 cases as to the principles applicable to school segregation cases. Of course, in numerous other cases, the Court has disposed of them by simple order or mandate, refused to grant review, and so forth. One suspects, in reviewing these decisions, that at times the Court has come perilously close to letting its emotions—not its legal acumen—rule its decisions, brought about, possibly, by the delays of school or other authorities which piqued the Court. Yet, the Court should not have been surprised that such delicate and grave problems would take some time to work out, the changes requiring as they did the reorientation in patterns not only of school districts, zones and the like, but also in the very habits, customs, and thinking of the people themselves. The Court has recognized the problem—at least implicitly—as the following language from Brown II indicates:

Full implementation of these constitutional principles may require solution of varied local school problems. School authorities have the primary responsibility for elucidating, assessing, and solving these problems, courts will have to consider whether the action of school authorities constitutes good faith implementation of the governing constitutional principles.

In *Cooper et al.* v. *Aaron et al.*, 358 U.S. 1 (1958) the Court interpreted Brown II only as requiring the end of racial "segregation in the public schools with all deliberate speed." It conceded that local authorities might consider the qualifications of Negro children, so that they would not be barred from particular schools solely because of race or color. In fact, the Court went further. It conceded that lower courts might conclude there was no justification to require present nonsegregated admission of all qualified Negro children, if in scrutinizing the programs, the court was assured that the local authorities had arrived at the earliest practicable completion of desegregation and had taken steps to put the plan in operation. The Court here used, in a case arising 4 years after Brown, the term "desegregation" but only in a way clearly indicating that its decree was aimed at eliminating de jure segregation. The terms "desegregation" and "racial discrimination" were used, but the Court did not refer to the term "integration."

Frankfurter's concurring opinion in Cooper against Aaron probably expresses more clearly and forcibly than anywhere else the principle or the Court's expressions in this area:

The Constitution precludes compulsory segregation based on color in state-supported schools.

And the Court aims at "ending enforced racial segregation in the public schools"—for example, "in cities with Negro populations of large proportions." It is, from this, abundantly clear that the only goal or principle expressed by the Court is that forced segregation is illegal. Nothing more was stated or implied until much later and, as already observed, one suspects that such later utterances were the result, not of legal reasoning, so much as of pique at delay.

To illustrate the truth of the above statement, one turns to *Goss* v. *Board of Education*, 373 U.S. 683 (1963). The school boards had adopted transfer provisions, to allow students, on the sole basis of race and the racial composition of the school to which assigned pursuant to a newly adopted rezoning plan, to request assignment from a school where the student would be in the racial minority back to his former segregated school with a majority of his race.

In holding such a transfer plan illegal because it would lead to the perpetuation of segregation, the Court noted that the child could choose segregation but not integration outside his zone and said:

State-imposed separation in public schools is inherently unequal.

Indicating that what the Court had in mind was not forced integration, but forced segregation is the following quotation:

If, here, transfer provisions were made available to all students regardless of their race and regardless as well of the racial composition of the school to which he requested transfer we would have an entirely different case. Pupils could then at their option (or that of their parents) choose, entirely free of any imposed racial considerations, to remain in the school of their zone or to transfer to another.

Further, "classification based on race for purposes of transfers between public schools" is against the Constitution. Here, the Court reiterated that "race as an absolute criterion for granting transfers which operate only in the direction of schools in which the transferee's race is in the majority" is unconstitutional. All that the Court condemned here was classification based on race for purposes of transfers between public schools.

Similarly, the Court in *Griffin* v. *County School Board*, 377 U.S. 218

(1964), forbade the perpetuation of racial segregation by closing public schools and operating only private segregated schools supported directly or indirectly by State or county funds. The Court again referred to the prevention of "racial discrimination" and again used the term "segregation." Indicating that the Court was not so much concerned with forced integration, as with banning forced segregation and helping education, was the comment that the lower court should issue a decree guaranteeing "that these petitioners will get the kind of education that is given in the State's public schools."

Understandably, in 1965, with *Rogers* v. *Paul*, 382 U.S. 198 (1965), the Court began to be concerned about the pace of ceasing forced segregation. In that case it commented that—

> Delays in desegregating school systems are no longer tolerable.

The same thing may be said of *Bradley* v. *School Board*, 382 U.S. 103 (1965), the Court referring to school "desegregation" plans in considering the impact of racially based faculty allocations. It is about at this point that one feels the Court forgot its earlier recognition of the massive local problems involved and turned to a more urgent principle, one that, with deference to the Court's judgment, has seemed to increasingly overlook these problems and the educational results sought, in calling for more and more urgency to desegregate.

Not until 1968, 14 years following the original Brown decision, in *Green* v. *County School Board*, 391 U.S. 430 (1968), a case involving a freedom of choice plan in New Kent County, Va., did the Court explicitly or impliedly go beyond discussions aimed at forced segregation. There, a freedom of choice plan allowing pupils to choose their school was held unacceptable on the sole ground that, during 3 years, no white pupil chose all-Negro schools and though 115 Negroes enrolled in formerly all-white schools, 85 percent of them still attended all-Negro schools. Here, for the first time, the Court interpreted Brown II as requiring school boards "to effectuate a transition to a racially nondiscriminatory school system" and stated that—

> The transition to a unitary, nonracial system of public education was and is the ultimate end to be brought about.

I believe, however, that the argument of the school board in this case is a correct analysis of the legal principle involved: that freedom of choice plans may be faulted only by incorrectly reading the 14th amendment as universally requiring compulsory integration. The amendment will not support such a reading. The Court, however, refused to go along with this proposition, stating that Brown II required a "racially nondiscriminatory school system." It was said that school boards were "clearly charged with the affirmative duty to take whatever steps might be necessary to convert to a unitary system in which racial discrimination would be eliminated root and branch." The Court's impatience is indicated by its statement that the time for deliberate speed had run out and that—

> The burden on a school board today is to come forward with a plan that promises realistically to work, and promises realistically to work *now*.

Strangely, though, the Court did not outlaw "freedom of choice" plans. In fact, it said:

> We do not hold that "freedom of choice" can have no place in such a plan. We do not hold that a "freedom-of-choice" plan might of itself be unconstitutional, although that argument has been urged upon us. Rather, all we decide today is that in desegregating a dual system a plan utilizing "freedom of choice" is not an end in itself.

The Court, however, pretty well emasculated the meaning of the words quoted, by adding later in the opinion,

> Although the general experience under "freedom of choice" to date has been such as to indicate its ineffectiveness as a tool of desegregation, there may be well be instances in which it can serve as an effective device. Where it offers real promise of aiding a desegregation program to effectuate conversion of a state-imposed dual system to a unitary, nonracial system there might be no objection to allowing such a device to prove itself in operation. On the other hand, if there are reasonably available other ways, such, for illustration, as zoning, promising speedier and more effective conversion to a unitary, nonracial school system, "freedom of choice" must be held unacceptable.

This language, it seems rather clear, comes close to outlawing all freedom-of-choice plans. This, I believe, is not only a far cry from the Court's original posture but one that is not supported by the Constitution.

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I yield to the distinguished Senator from Georgia, the beloved President pro tempore.

Mr. RUSSELL. Mr. President, the Senator is dealing with holdings of the Supreme Court. Of course, until recently Congress was supposed to be the legislative body in this country. Here of late the Supreme Court has preempted our prerogatives or rather usurped our prerogatives. However, I recall distinctly when the so-called Civil Rights Act of 1964 was being debated the distinguished Senator from West Virginia asked a question of two of the principal sponsors of the bill and both of them indicated in their answers that the only thing required by the law that Congress passed was that the doors of the schoolhouse be open to any child qualified to stay in the class which he attended without regard to race or any other qualification. The Supreme Court has gone beyond that and imposed a great many other regulations on the trustees and those who operate our schools. But so far as legislative intent is concerned, the only legislative intent I have heard manifested in any of this legislation is that the door be open to any child who applies, and not that there is any responsibility on anyone anywhere to work out some kind of numerical ratio of the races in the schools.

Mr. BYRD of West Virginia. I thank the able Senator. He is absolutely correct.

Mr. ERVIN. Mr. President, will the Senator yield for a few questions?

Mr. BYRD of West Virginia. I would hope the Senator would not persist in asking questions at this point. I would like to proceed at this time and I shall be glad to yield later.

Mr. ERVIN. That is quite understandable.

Mr. BYRD of West Virginia. Mr. President, if, in other words, pupils choose, under such a plan, to remain with the present school, for reasons having nothing to do with either education or segregation, presumably the court would outlaw it, for now it says, a unitary, nonracial system is required. It seems not to have occurred to the Court that pupils may base their choice on things quite unrelated to the "segregation" turmoil going on about them, for example, interest in athletic, cultural, or social activities. Who is to say they are wrong in considering such aspects of school or neighborhood life? Moreover, who is to say that they are wrong in wanting to choose their associates and in preferring to associate with their own color, black or white? Yet, the Court, even here, did not come out flatly in favor of forced integration. It said the inquiry was whether the board had taken steps to abolish a dual, segregated system. This, it is clear, is far from approving, much less requiring, forced integration. This is a far cry from stating that the Constitution justifies, much less requires, that the power of the Federal Government be put behind forced integration of schools.

Raney v. *Board of Education*, 391 U.S. 443 (1968), also considered the adequacy of a "freedom of choice" plan very similar to that in Green and with about the same results: that is, no white children enrolled in all-Negro schools and over 85 percent of the Negro children still attended the all-Negro schools. Despite the fact that the plan was approved by HEW, the Court held it inadequate "to convert to a unitary, nonracial school system." The Court said adamantly that "the goal of a desegregated, nonracially operated school system" must be "rapidly and finally achieved."

Monroe v. *Board of Commissioners*, 391 U.S. 450 (1968), involved, not a freedom of choice, but a "free transfer" plan. Attendance zones had been redrawn along geographic or "natural" boundaries and, according to capacity and facilities, within the school zones. Any child, after registering annually in his assigned school in his attendance zone, could freely transfer to another school of his choice if space were available, zone, residents having priority in case of overcrowding.

This plan, too, was held not sufficient, because, for example, schools with over 80 percent of the Negro students had no white pupils and one school had only seven Negroes out of 819 students. In short, the students chose to remain with their former "white" or "Negro" schools, with the exception that one school had 349 white and 135 Negro pupils. Here, the Court said the transfer device "patently operates as a device to allow resegregation of the races to the extent desegrgation would be achieved by geographically drawn zones." Again the Court paid lipservice to such plans, as follows:

> We do not hold that "free transfer" can have no place in a desegregation plan. But

like "freedom of choice," if it cannot be shown that such a plan will further rather than delay conversion to a unitary, nonracial, nondiscriminatory school system, it must be held unacceptable."

One wonders why the Court did not, frankly and honestly, say that it would never, under any circumstances, approve any freedom-of-choice plan. In neither case, again, did the Court lay down or even imply as a binding principle that "forced integration" was the maxim. On the contrary, as has already been pointed out in discussing Goss against Board of Education, the Court stated clearly and unequivocally that transfer provisions available to all students regardless of race and regardless of the racial composition of the school to which the student requested transfer would be, in its words, "an entirely different case." The Court said:

Pupils could then at their option (or that of their parents) choose, entirely free of any imposed racial considerations, to remain in the school of their zone or to transfer to another.

The Monroe case, although disapproving the "free transfer" plan involved therein, did not state that forced integration was the principle to be applied. The Court admitted that in the Goss case it stated that free transfer plans under some circumstances might be valid, and that so long as no official transfer plan or provision of which racial segregation is the inevitable consequence, it may be allowed to stand under the 14th amendment.

Not until *U.S.* v. *Montgomery County Board of Education*, 395 U.S. 225 (1969), did the Supreme Court directly use any language similar to that of "forced integration." That case, concerning Montgomery County, Ala., involved a situation where the school authorities did not voluntarily take any effective steps to integrate public schools, and where the State government and its school officials, in the words of the Court, "attempted in every way possible to continue the dual system of racially segregated schools in defiance of our repeated unanimous holdings that such a system violated the U.S. Constitution."

After pointing out that, so far as the Court could see, the schools in that situation had operated as though the Brown cases had never been decided, the Court stated that the "coercive assistance of courts was imperatively called for." The Court referred to the school board's responsibility to achieve, as soon as practicable, a fully integrated school system and, in the words of the Green case, wipe out segregation "root and branch." One suspects, in reading this opinion, that the strong language used by the Court was not the result of any particular legal principles felt to be applicable to the use, but was, rather, the manifestation of its impatience with the delay and resistance of the school authorities in the case to moving toward abolishing forced segregation.

As a matter of fact, the opinion, other than as already mentioned, uses the term "segregation" throughout and states that "desegregation" is a goal "recognized to be an important aspect of the basic task of achieving a public school system wholly free from racial discrimination." That the above statement is justified is supported by a peculiarly personal statement by Justice Black near the end of the opinion:

It is good to be able to decide a case with the feelings we have about this one. But the differences between the parties are exceedingly narrow. . . . Respondents recognize their affirmative responsibility to provide a desegregated, unitary and nonracial school system.

And the opinion noted the authorities' stated purposes to bring about a "racially integrated school system as early as practicable in good faith obedience to this court's decisions."

In Alexander against Holmes County Board of Education, decided October 29, 1969, docket No. 632, Justice Black, writing as Circuit Justice, spoke in such arbitrary terms that one wonders whether he—and the other members of the Court—have allowed their emotions, their impatience, or however one wishes to phrase it, to outweigh their commonsense and legal reason. This case laid down no new law, and did not, in so many words, call for forced integration, it being one concerned with a delay in accelerating desegregation plans in Mississippi. Later in the same case, before the full Court, it was held that school districts could "no longer operate a dual system based on race or color" and they were directed to "begin immediately to operate as unitary school systems within which no person is to be effectively excluded from any school because of race or color."

Owing to the seemingly contradictory language the Supreme Court has used in these cases, there may yet be legitimate differences of opinion as to whether the Court has put to rest disputes in lower courts about whether the 14th amendment requires forced integration or merely prohibits de jure segregation or discrimination. The reason this may still be in dispute is that recent cases, as indicated, have been concerned mainly or entirely with the pace of desegregation and the Court has not, it is felt, clearly enunciated the precise guiding principles beyond the Brown cases.

The cleanest expression as to forced integration, in fact, has come not from the Supreme Court, but from the fifth circuit, in *United States* v. *Jefferson County Board of Education*, 372 F. 2d 836 (1966), cert. den. 389 U.S. 840 (1967), affirmed en banc in 1967 and certiorari denied the same year. Here, the circuit court came out clearly and said that the Constitution "requires public school systems to integrate students, faculties, facilities, and activities" and that it was the "affirmative duty of States to furnish a fully integrated education to Negroes as a class." In citing the Brown cases for this proposition, however, one submits that the fifth circuit has misread those cases and stretched their principle beyond what the Supreme Court either held or said. In fact, one feels that the fifth circuit, in speaking in such unequivocal language, has paid only token service to education, while holding integration to be the end-all.

Thus, one feels, the argument as to "integration," "desegregation," or "nondiscrimination" is more than semantics, as some have said; it would seem to be at the root of the problems bedeviling education today—not only in the South but also in cities and States throughout the country. The debates which have already occurred in this body—and with more to come—are evidence of this fact, let alone the articles appearing almost daily in the press. So, whether the fifth circuit is correct or whether Judge Parker, in *Briggs* v. *Elliott*, 132 F. Supp. 776, is right, the problem is far more encompassing than mere legal semantics or technicalities; it strikes at the very heart and soul of our public school system today. Judge Parker, it will be recalled, said that:

The Constitution . . . does not require integration. It merely forbide discrimination.

One feels that unless the Federal Government is to embark on a vast social experiment, based on neither logic nor reason nor accepted values of any kind—and one costing perhaps billions of dollars—Judge Parker's dictum may well be heeded, before it is too late. Which is worse and which is right—to have forced segregation or forced integration? Neither bodes well for the future of quality education in the United States, and both are very likely to bring about even more turmoil, strife, unhappiness, and wasted resources than have already occurred in the tortuous path of this problem; a problem which, really, is at the heart of our society, resting as it does on the education of the populace.

In addition to the cloudiness of the applicable legal principles involved, one cannot fail to note the seemingly partial attitude of the Supreme Court. While indulging numerous cases involving Southern States, it has, as recently as 1968, declined to review a case arising from Ohio holding—and, I believe, rightly so—that the Constitution imposed no duty on a local school board to correct racial imbalance by such devices as busing students, transfer classes, and new school site selections, *Deal* v. *Cincinnati Board of Education*, 369 F. 2d 55 (C.A. 6, 1967), 389 U.S. 847 (1967). Is there, one wonders, any difference between so-called de jure and de facto cases, and has the Court allowed its impatience with the pace of desegregation—perhaps too slow in some cases—to blind it to the fact that this problem is not regional or sectional, but exists throughout the length and breadth of the land?

Unless one is to disregard the language used in Goss against Board of Education, unless one is to forget the actual holdings and language used in the Brown cases, unless one is to affirm complete acquiescence in the fifth circuit opinion already mentioned, then one wonders why the Supreme Court cannot approve a "freedom of choice" plan. Can it be that, as a practical matter, the Court realizes, finally, that such plan will not immediately—or perhaps ever—lead to full integration—and, therefore, the pace is too slow—or is it that the Court, caught by the logical outgrowth of its own language, chooses to ignore it and, at least implicitly, requires forced integration? The progression of cases before the Supreme Court sufficiently indicates the complexities and confusion which exist

as to the actual, technical, legal principles involved. I shall leave to legal scholars, more learned than I, to deal with this "tangled web"; one feels, in any event, that however extensive the legal analysis undertaken, there will yet be real—and legitimate—differences of opinion. The history of the period being one of litigation and legal concepts which have seemed to shift with each particular case—starting with pupil placement and extending through majority and minority transfers to freedom of choice—the problem is not easily subject to concrete answers.

In 1964, Congress enacted a Civil Rights Act—to which the able President pro tempore referred a moment ago—in which it was declared as follows:

"Desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but "desegregation" shall not mean the assignment of students to public schools in order to overcome racial imbalance.

Further, it was enacted even more specifically in that statute:

Nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance.

Mr. President, during the past 2 or 3 years, we have witnessed the open violation of the 1964 Civil Rights Act on the part of Federal authorities. Students have been assigned by race in order to overcome racial imbalance. Students have been transported from one school to another or from one school district to another in order to overcome racial imbalance. Where is the equal protection of the law as between those, both black and white, who are compelled to move or be bused away from their own neighborhood schools, and those, black and white, who are not compelled to move? Where is the equal protection of the law as between children who are provided free bus service if they choose to go in a direction that will achieve racial balance and those children who choose to go in any other direction?

Here is indeed an incredible spectacle. Despite the Congress of the United States having enacted a statute requiring that " 'desegregation' shall not mean the assignment of students to public schools in order to overcome racial imbalance," a department of the U.S. Government proceeds to spend vast sums of tax money collected from American citizens, as a means of inveigling school administrators to join with it—the Federal Department of Health, Education, and Welfare—in violating the express will of Congress. The fund amounts, however, to hundreds of millions of dollars, and with a temptation so great, many succumb. As Huck Finn observed, "The money fetches 'em."

Does the U.S. Constitution require that State governments shall, on the basis of a child's race or color, designate and determine where he is to attend public school if such is necessary in order to bring about forced integration? Of course, the Constitution of the United States does not so require. It only requires that no State shall deny to any person within its jurisdiction the equal protection of the laws. It forbids the use of governmental power to enforce segregation. It requires that a State may not deny to any person, on account of race or color, the right to attend any public school that it maintains.

How does it make sense to say that words in the U.S. Constitution, and specifically in its 14th amendment, prohibited the States in 1954 from assigning children in public schools on the basis of race, and that identically the same words, in the same 14th amendment, may compel the States in 1970 to assign children in public schools on the basis of race?

How can it reasonably or intelligently be claimed that 16 years ago the constitutional requirement of "equal protection" of the law freed students from government compulsion based on race, or color, but that the same constitutional requirement now imposes government compulsion based on the same factor; namely, race or color? This is a monumental inconsistency, but it is precisely what is taking place under the orders of some of the Federal courts and HEW. Children, black and white, are sent to this school or to that school or to another school, depending upon whether they are white or black. How can it be said that the Constitution grants freedom to the Negro child or to the white child if it denies freedom of choice to either of them and if it imposes a compulsion upon either or both of them determined by race or color? White children are bused out of white neighborhoods and placed in schools predominantly Negro miles away, and Negro students are bused for miles to schools that are predominantly white, and, in both cases often against their will and the will of their parents. Most of them would like to continue to attend their own neighborhood schools. Yet, against their will, and through no choice of their parents, these children, black and white, are bused over icy roads, leaving home an hour or so earlier in order to reach their school destination and returning home an hour or so later than would otherwise be the case if they had been permitted to attend the schools of their choice.

How can the Constitution of the United States, and specifically its 14th amendment, today require what it so clearly prohibited 16 years ago, namely, State dictation of school assignment on the basis of race or color? During those 16 years there has been no change whatsoever in the wording of the 14th amendment.

One of the first principles of American constitutional law is that the U.S. Government has no powers except as delegated or assigned to it by the Constitution. Nobody claims that the Constitution gives the Federal Government any power to educate the youth or to operate or regulate the public schools in the various States. It is, however, the responsibility of the Federal courts to enforce the constitutional provision requiring the States to give "equal protection of the law" to all citizens. Yet, how can they claim that they are obtaining the "equal protection" of law for a citizen when they order a State to take from him a right which they, the Federal courts, have themselves declared to be his constitutional right; namely, the right not to have his school assignment determined on the basis of whether he is white or whether he is black.

Negro children who rioted recently in Florida and Louisiana because they were being forced to attend schools other than those of their choice might well have felt that the freedom of the Negro child to attend any public school without regard to his race, first secured in the Brown cases, is again lost to him after a short life of 15 or 16 years. Barring a child from a certain school because of his race, white or black—and forcing a child to go to a certain school because of his race, white or black—these are precisely one and the same offense against the U.S. Constitution and specifically its 14th amendment.

As for "quality education," it may reasonably be doubted whether forced assignment to schools for the purpose of achieving racial balance, irrespective of the wishes of the students and parents involved, can possibly contribute to equanimity or to harmony or to "quality education" in the public schools.

No integration will ever be meaningful or lasting unless it is purely voluntary. If integration results from the free and voluntary choice of individuals there can be no quarrel with it from a legal standpoint. But there is and should be quarrel with those who declare that our Constitution orders and compels forced integration. To force integration in the name of the Constitution and against the will of children and their parents, black and white, is an unforgiveable subversion of that document.

Those who fail to see this may be motivated by what they consider to be "nobility." They may be motivated by the best of intentions to achieve "quality education," "social unity," or whatever. There always have been, and probably always will be, many people who have a great urge to plan and prescribe what they deem to be best for everybody else, and in that process they are often quite willing, consciously or unconsciously, to override any individual liberties that stand in the way of what they consider to be beneficial or desirable. But the Constitution was intended to be a barrier against such "well intentioned" individuals when they have achieved public office, both appointive and elective. Daniel Webster said it well:

It is hardly too strong to say that the Constitution was made to guard the people against the dangers of good intentions.

Thomas Jefferson, in his inimitable way, expressed it thusly:

Let us hear no more then of the good intentions of man, but bind him down with the chains of the Constitution.

Mr. President, how many Senators, how many Members of the House of Representatives, would want to see their children compelled to attend public schools not of their choice? How many Federal court judges, yea, how many Justices on the U.S. Supreme Court, would want to see their children or

grandchildren bused for miles out of their own neighborhoods just to bring about some degree of racial balance in order to conform to the whims and fancies of bureaucrats in the Department of Health, Education, and Welfare? How many Senators, Representatives, and Federal judges, through noble motivations send their children or grandchildren to District of Columbia schools which are 95 percent nonwhite? To ask the question is to answer it. None, in all probability. How many high HEW officials, Negro or white, send their children to the District's schools?

Mr. President, these officials in the legislative, judicial, and executive branches of the Government can afford to send their children to private schools or they can live in suburbia where schools are virtually all white. Negro parents, in many instances, have taken their children out of the District of Columbia schools and placed them in private schools.

I do not blame them. I would not let my children go to school in the District schools. I would be opposed to my grandchildren attending the District schools; and, if I could possibly prevent it, I would not let one of my daughters teach in the District schools, where she would be confronted with switchblade knives, steel knuckles, and pistols, and have to listen to offensive language, profanity and obscenities, and where her life might be threatened.

No; I do not blame these Negro parents for taking their children out of District schools and placing them in private schools. They are concerned about the safety and the education of their children. I do not blame Senators and Representatives for not wanting their children to go to District schools. They, too, are rightly solicitous regarding the education and the safety of their children. I do not blame judges in the Federal courts for putting their children in private schools, rather than have them attend schools in the District of Columbia. Let us be honest about it.

Recently it has been stated that even some members of the District of Columbia School Board send their children to private schools. What is sauce for the goose is sauce for the gander. Is it not political hypocrisy to vote to send other people's children, against their will, to this public school or to that public school, depending upon whether the child is white or black, while he who so votes sends his children or grandchildren to a private school? There is more political hyprocisy involved in this issue of forced integration than in any other issue today, in my opinion.

Mr. President, I come from a State which, I submit, may be characterized as neither North nor South. Whether this is a happy coincidence, in view of the current subject of debate, is open to question. On the one hand, it removes one from close proximity to some of the terrible problems with which much of our country is now struggling; on the other hand, hopefully, it may give one the objectivity to view all sections, North and South, with compassion and reason and understanding, and to throw some light on what I conceive to be the real problem here. Desegregation in my State did not pose such a difficult problem as it has in many States, because West Virginia has a population which is only 5-percent Negro. Some of our counties have no Negroes at all. To be removed personally from such a difficult desegregation problem means, on the one hand, that I may not be aware of the many complexities existing in such a situation. Contrarily, it may permit one to take a more balanced and factual approach.

As is well known, West Virginia takes its name from the fact that in 1863, during the Civil War, the western counties of Virginia broke away from the mother State and rejected secession. This act has typified the independent attitude of my State toward many of the issues and problems which from time to time have nearly torn this country asunder, and which even today plague modern man—with all his knowledge and techniques—and defy solution. We have been blessed in not having suffered the awful problem which many cities and States have endured as the result of efforts to end forced segregation.

Speaking of West Virginia and the Civil War, there was not a single county in what is now West Virginia that was wholly northern or wholly southern in sympathy. Ours was truly a border State of divided loyalties. C. Shirley Donnelly, who is probably West Virginia's foremost living State historian, states in a February 4, 1970, newspaper column:

> More than 40,000 West Virginia men shouldered arms in the 1861–1865 trouble. In 1868 the total population of the area that composed West Virginia was but 376,688. Of the men who went to war in that struggle there were about 10,000 who fought for the Confederacy, the exact number unknown. It is known that about 32,000 joined the various Union armies.
>
> Our state was the scene of the first land battle of the Civil War, the affair at Philippi, June 3, 1861.
>
> Nearly 500 battles, engagements, fights, skirmishes, and brushes took place between the contending armies in West Virginia territory.
>
> West Virginians in the Civl War attained no little distinction. Seven of them became generals in the Confederate Army.
>
> Those who rose to rank of general in the Union Army were 14. Of these who became generals, the most famous was "Stonewall" Jackson.

These facts are mentioned, not to indicate the presumption of any expertise on the subject before us today, but merely to sketch in the background from whence I speak. I am not only concerned with my own State—though, of course, as is natural and proper, it comes first in my consideration—but I am concerned with all States. I am concerned, in short, with education in this country and what is happening to it. I am fearful that quality public education is going to be greatly impaired in many areas of the country and that hundreds of thousands of school children, Negro and white, will suffer therefrom if Federal officials and Federal courts persist in their unwise, and unreasonable efforts to require forced integration.

One may well cite the words of the Secretary of Health, Education, and Welfare in one of the Mississippi cases, that time was too short, under the then existing development of plans, to formulate provisions which could be implemented without producing "chaos, confusion, and catastrophic educational setback to the 135,700 children" concerned. The delay was not allowed, the consequence being the withdrawal of increased numbers of white children from public schools and their enrollment in private schools—that is, those who could afford it.

Mr. President, the problem before us all is not only a legal and a constitutional one; it is also, and first of all, a human problem—one of education, of children, of hearts, and minds—both those of white children and Negro children—which are suffering, indeed disregarded, in the tumult and the shouting. There are here, as nowhere else, practical and human problems involved which call for the highest degree of understanding and compassion and wisdom, and for the greatest patience we can bear.

At this point, I would like to recall to Senators some expressions used by the Supreme Court itself as to the gravity of this situation, and as recognizing the difficulty of solving it: Today, education is perhaps the most important function of State and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment.

In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the State has undertaken to provide it, is a right which must be made available to all on equal terms, Negroes and whites alike. Hearts and minds may be affected in a lasting way by circumstances under which education is afforded. Responsibility for public education is primarily the concern of the States.

There is a diversity of circumstances in local school situations. School plans may be reasonably designed to meet legitimate local problems. Practices, habits, and customs of generations may be recognized as indisputable facts in considering the change of school systems. There is no universal answer to the complex problems of desegregation. Whatever plan is adopted will require evaluation in practice.

A doctrinaire approach to desegregating schools may lower educational standards or even destroy public schools in some areas. No court can have a confident solution for a legal problem so closely interwoven with political, social, and moral threads as the problem of establishing fair, workable standards for undoing de jure school segregation in the South.

Mr. President, quotes are not placed

around the statements in the preceding paragraph; yet, all of them—save one or two sentences—are taken from Supreme Court opinions on this question which is gnawing at the heart of America; and those phrases are taken from the Fifth Circuit case already mentioned. Certainly, they indicate the Court's awareness of the difficult, highly complex, human, social, educational and cultural problems involved. Would that the Court, in all its wisdom, had actually given more weight to these considerations in the decrees and orders it has issued. One may well grant that 8 or 12 years or 15 years is a slow pace in solving such a problem, but for how many generations has it existed?

We all are impatient that we cannot, overnight, push a mighty button and see all our problems disappear. We are equally frustrated because, knowing no magic button exits, we cannot, by even the most superhuman effort, begin to solve some of the many other complicated problems before us today. One may mention, among others, pollution, the arms race, and the problems of the poor. Democracy, however, in the words of Plato, being "a charming form of government, full of variety and disorder," it is not given to us, no, not even to Senators, not even to Supreme Court Justices, to so easily or quickly turn around the course of events and solve problem so readily. It takes, not time alone, but understanding to the point of widsom and, perhaps above all, compassion—compassion not only for the students involved—though that above all—but also for the cities and communities and States torn with such problems.

For these problems are human, make no mistake about it—as human as any we are ever likely to encounter, no matter how long or in what capacity we serve this country, or our individual States. I regret that my words cannot conjure up before you the actual picture of what the cold figures of forced integration mean, to black and white alike—to the allegiance to their former school, to the trust placed in former teachers to friendships torn asunder and even to the forced separation of sisters and brothers in the same family by shifting them to different schools, but—most and preeminently of all—to the education of the children, for is that not what the hue and cry is all about?

Previously, on January 28, I placed in the RECORD an article about Yale Prof. Alexander M. Bickel's forthcoming book, "The Supreme Court and the Idea of Progress." The article appeared in the National Observer and was titled "Doubts Grow About School Integration." Even before that, Joseph Alsop, writing in the Washington Post of December 3, 1969, remarked on this work. Mr. Alsop quoted in his column, a single sentence which presumably indicates the thrust of Professor Bickel's book:

> The Warren Court's noblest enterprise—school desegregation—and its most popular enterprise—reapportionment—not to speak of the school prayer cases and those concerning aid to parochial schools, are headed toward irrelevance, obsolescence, and, in large measure, abandonment.

Professor Bickel, in his book, argues that the Supreme Court, in its desegregation rulings, beginning with the history-making Brown against Board of Education decision in 1954, should have contented itself with finding only that legally enforced school segregation is unconstitutional. Professor Bickel argues that in going beyond that principle to maintain that separate educational facilities are inherently unequal, the Court bases its reasoning on dubious sociology and a parochial view of American education, one holding that education's main duty is to promote assimilation.

Yet, in forced desegregation we merely force more whites into the suburbs or into private schools, leaving, Professor Bickel argues, only the poor—black and white—in city schools. The thesis of this work is one we should all remember for years to come: that the courts, and, in particular, the Supreme Court, are imperfect instruments of social and political reform, which, in virtually all cases, should be left to the people's elected representatives, in the legislatures and in the Congress.

In the latest development of this matter to come to my attention, Professor Bickel has written an article appearing in the New Republic for February 7, entitled "Desegregation: Where Do We Go From Here?" This article sets forth the following point: to dismantle the official structure of segregation, even with good faith cooperation, is not to create integrated schools, any more than such schools are produced by the absence of an official structure of school segregation in the North and West.

> The actual integration of schools on a significant scale is an enormously difficult undertaking, if a possible one at all. Certainly, it creates as many problems as it purports to solve, and no one can be sure that even if accomplished, it would yield an educational return.

Professor Bickel goes on to develop the point that, while the Supreme Court originally barred segregation, later thinking developed to set a point that it was demanded that students, faculties, and administrators had to be shuffled about so that an entirely or almost entirely black or white school would no longer be characterized as such. Residential zoning, pairing of schools by grades, busing, and transfers have been employed to insure distribution of both races through the school system. But it is stated:

> However legitimate the reasons for imposing such requirements, the consequences have been perverse. Integration soon reaches a tipping point.

And resegregation sets in.

Professor Bickel argues that there is no way to prevent whites fleeing certain schools and there are no gains sufficient to offset the flight of the whites in continuing to press the process of forced integration. To pursue a policy of forced integration, according to Professor Bickel, would require pursuit of the whites with busloads of innercity Negro children, or even perhaps with trainloads or helicopter loads, as distances lengthened. The very substantial resources that would be needed for such a project have so far nowhere been committed, in any place. The reason is that no one knows or can show that such an enterprise would be educationally useful to children, black and white. Moreover, and in the long view very importantly, such large scale efforts at forced integration would almost certainly be opposed by leading elements in urban Negro communities.

As the article continues, polls asking abstract questions may show what they will about continued acceptance of the goal of integration, "but the vanguard of black opinion, among intellectuals and political activists alike, is oriented more toward the achievement of group identity." And so we find that, while the courts and HEW are rezoning and pairing schools in an effort to integrate them, Negro leaders in northern cities are trying to decentralize them, accepting their racial character and attempting to bring them under community control. In fact, some Negro leaders in the North are asking for black principals and black teachers for black schools.

As the above quotations from this article indicate, it is quite clearly Professor Bickel's view that massive school integration is not going to be achieved in this country very soon, in part because no one is certain that it is worth the cost, and he says, therefore, let us get on with education.

The de facto segregation yet existing, as it has for years, in northern cities and States has already been noted by other Senators, in a manner far more detailed than I could accomplish. That it exists, no one denies; and that it is a problem equally as complex as so-called de jure segregation, no one would deny.

Many questions rise to haunt us when we think about this subject. What does a school district have to do to change to a unitary system? What is a unitary system? Just what is the proper shape of desegregation? Is it constitutional to separate children by test scores, and suppose after this, the children end up separated by race as well? In southern cities, now, blacks and whites may be separated not only by tradition but by neighborhoods, so how much busing must a city do before it has a "unitary school system?" As, in many other southern cities and towns, neighborhoods are not segregated—certainly to the same degree as are those of northern urban areas with many "inner" or "core" cities almost all black and the suburbs almost entirely white—is a plan drawn along residential lines acceptable? Let alone how much a school district must do, how long must it do it? What if it changes attendance zones to desegregate two schools and whites then move to avoid the desegregation? Does it have to change the zones again? How many times? These questions indicate some of the actual problems confronting the States and the people—legally, socially, and educationally.

It should be recognized, as I indicated earlier, that this is not a southern problem, or a northern problem—it is an American problem. For instance, while

a fifth of the South's black pupils were in predominantly white schools last school year, this year Federal estimates are that it may be a third. Nationwide, last year 61 percent of the Negro pupils in the 49 continental States were in schools between 95 and 100 percent colored. This gap, also, as between North and South, is lessening, though, as previously published data indicates, there are many places in the North where segregation is as much a fact of life as anywhere else.

Mr. President, let us all recall that we are neither North nor South, neither East nor West. We are Americans, and it is in that spirit that we should approach and solve this problem, God willing. It is in that spirit that I speak today. Some Negro leaders, recognizing how greatly education of Negro children is suffering, are now frank to say that they prefer education first, and integration second—or maybe not at all. The national director of CORE, Roy Innis, is trying to drum up support to establish separate black school districts in the South; and civil rights leader James Farmer concedes that recently he has stopped trying to sell Negroes on integration—"They don't agree on it anymore." In my view, these men are pragmatic and have reached the nub of the whole complex problem—that it is one of education for all, black and white alike, and education first. Unless we make this our paramount concern, I fear we shall—for years to come—do grave harm to education, for all children, Negro and white. The failure is not one of South or North; the failure is one of the American dream so far to solve this human and complex problem. To forbid forced segregation is not to bring about forced integration; and to bring about forced integration, North or South, is certainly a formidable undertaking. It creates many problems—educational, social, cultural—and the question is, would the educational results be worthwhile or even beneficial at all.

Do we wish to continue to move children about like cattle? Do we want to use children—black and white—as guinea pigs in a vast social experiment, one that may be laudable—idealistically—but perhaps quite impractical realistically, at least for our day and time? Do we want to persist in trying first one mode then another—residential zoning, busing, free transfers, et cetera—hoping, somehow, to stumble onto one that may be acceptable and workable? For whatever the legal principle which governs here and how much men may agree on it, if it will not work, of what good is it to anyone and least of all to the education of children?

As has been pointed out, there are problems beyond education that should be considered. Man being a social animal, these problems fall into the social, cultural, and even economic areas. Where resegregation sets in, as it has in the District of Columbia and other large cities, where it is the result of some children fleeing to private schools, the poorest are the ones who suffer most—Negro and white. Families scrape and save, but no matter how hard they scrimp, some are simply unable to send their children to private schools, or to give them the kind of quality education we would like for all children in this country.

Granting it is wrong to classify people by race, color, or any other arbitrary standard, can the goal laid down by the courts be attained without resegregation of one kind or another? That goal, one submits, is questionable. And even if obtainable, is it right that any child should be subjected to a school system that is, to him, disagreeable? Recalling playground activities, school plays, clubs, school picnics, and all the various other activities which are part and parcel of schools in the United States, is it right that we force children to be thrown into a strange and unfamiliar milieu in which many of these things are lost to them? Will the result be harmful or good? Is it not more important to turn our attention to education first, and social movements second?

Mr. President, I do not pretend to know the answer. I suspect that neither do sociologists, educators, or psychologists. The problem is vast, complicated, deep. But what I do know is that we had best turn our best efforts, now, toward improving and guaranteeing education for all—race, color or creed notwithstanding. Reading and writing being the foundation not only of education, but also of meaningful participation in a democratic society, one may properly suggest that we cope with such problems as these and work out the sociological ones later, or perhaps reassess the value to be gained from them before making any decision one way or another. Education is the principal purpose of the public schools and is their sole reason for being. Integration should be secondary, incidental, and voluntary. Those who advocate forced integration, on the laudable pretext that people must learn to live together, are simply deluding themselves as to the efficacy of forced integration in bringing about better understanding and cooperation. All too often the result has been the opposite. Misunderstanding, suspicion, ill will, racial "incidents," and violence have rocked many schools, North and South. School officials often deny that such incidents are "racial" in nature, but the facts are not to be denied.

Mr. President, how long will our Government persist in its foolish, unwise course? Let us do all we can to give every child, black and white, the opportunity to develop its intellect and talents to the fullest, whatever its potential. It is far more important that black children be taught to read and write and add and subtract than to be hauled like guinea pigs out of their own neighborhoods and away to a strange school only that they may look into white faces. I say, Mr. President, let us first provide the opportunities for a good education to blacks and whites. This is what they will need in order to get and keep a job and to gain promotion in that job. Merely rubbing elbows with a white child will not equip a black child to grow up as a breadwinner for a family. Education is the important thing, and with it will come a better understanding and mutual respect upon the part of both black and white.

Mr. President, I have tried to speak not as a northerner or southerner, for I consider myself as neither. I do not represent a southern State or a northern State, but a border State. I speak as a Senator who is opposed to forced segregation. I speak as a Senator who is opposed to forced integration. I speak as a Senator who believes in the freedom of the individual Negro and white, to choose the associates. I have tried to speak only as a Senator and as an American and, more particularly, as one who is interested in the future of our country and one of its real strengths—the education of all, black and white alike. I speak in the national interest. I am gravely concerned that public education is going to be destroyed unless we act to save it. I hope very much that we may all assume this attitude for I fear that to continue to debate this question as representatives of sections, regions or States, North or South, liberal or conservative may accomplish little and indeed obstruct the way to lasting solutions. Quality education must not be sacrificed to the golden calf of forced integration.

Mr. President, the people of the great State of New York, recently appealed to their lawmakers to enact legislation to prevent busing to effectuate forced integration. New York is a liberal State with a liberally oriented legislature and a liberal Governor. I do not attach must significance to such terms as "liberal" and "conservative," but as the terms are today generally used, I think most everyone would agree that New York and its Governor are liberal. Yet, after full debate, the New York Legislature passed a bill and Governor Rockefeller signed it—although he had earlier threatened to veto it—ending compulsory busing of school children for the purpose of forced integration. The law became effective in September 1969.

The amendment before the Senate today is patterned after the New York law. The amendment provides that no child shall be excluded from or refused admission into any public school because of race or color, and that no child shall be compelled to attend any public school on account of race or color or for the purpose of achieving racial balance. This is a "freedom of choice" amendment, pure and simple. It treats Negro and white students alike. It gives them—Negroes and whites—freedom of choice. Who can be against freedom of choice? The Constitution requires no more and demands no less.

I shall vote for the amendment and I hope the Senate will adopt it.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point the article from the National Observer entitled "Doubts Grow About School Integration"; an article which appeared in the Washington Post of January 29, 1970, entitled "Shakedowns Intimidate District of Columbia Students"; an article appearing in the Washington Post in January 30, 1970, entitled "Blacks Riot in Florida School Transition"; and an article which appeared in the Washington Post on January 21, 1970, written by Joseph Alsop, entitled "Interracial Violence in Schools Requires A Wide Survey."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DOUBTS GROW ABOUT SCHOOL INTEGRATION

WASHINGTON, D.C.—A new word has entered the debate over segregation and integration in the nation's public schools: resegregation.

In dozens of cities, schools and school systems once almost entirely white are turning increasingly nonwhite. This trend, produced by the familiar exodus of whites to the suburbs and nonwhites to the inner cities, has been going on for more than 30 years.

Only now, however, it is becoming a matter of prime concern to Federal officials. A new Federal school survey shows that racial isolation exists in every section of the country and that its growth is most rapid in the big Northern cities. This fact is raising new doubts among many long-time integrationists about the wisdom of trying to enforce desegregation in the schools. Items:

Several years ago, the Cleveland Board of Education searched the city for a new high-school site that would permit optimum racial integration. They settled on a neighborhood of modest owner-occupied homes near the suburb of Shaker Heights that was 60 per cent white, 40 per cent black. But when John F. Kennedy High School opened in 1965, 95 per cent of its pupils were black. "There's no question the decision to open that school accelerated the departure of whites," says Mrs. Cornella Coulter Brown, administrative assistant for the Cleveland schools.

Edmondson High School on the west side of Baltimore was 80 per cent white when it opened in 1957. Today there are 25 whites out of its student population of 2,700. "This is a well-kept-up residential area," says assistant principal Margery W. Harris. "But once the school turned half-black, it turned rapidly almost 100 per cent black. The whites just moved out or took their children elsewhere."

Heavy Negro migration gave the District of Columbia's schools a Negro majority as early as 1950—four years before the Supreme Court's watershed desegregation decision. In 1970, with the schools 95 per cent nonwhite, middle-class Negroes are fleeing—just across the boundary to neighboring Prince George's County, Maryland. The interesting thing about Prince George's enrollments this year, however, is not that the number of new blacks is up but that the number of new whites is down. No one knows exactly why, but one administrator muses: "The whites are moving to other Washington suburbs rather than to Prince George's."

In city after city in the North, the story is the same: Schools once all or nearly all white are drawing nonwhites in increasing numbers. When they reach a "tipping point" of 30 to 50 per cent, the whites move out and the schools become rapidly almost entirely nonwhite.

The extent of resegregation in the North has never been known with any certainty. But the Department of Health, Education, and Welfare (HEW) undertook a survey of the racial composition of 90 per cent of the school districts in the country during the 1968–1969 school years, and fed the returns into a high-speed computer. The results, released Jan. 4, portray a system of segregated education that knows no regional boundaries.

The survey shows, for example, that 5 out of 10 Negroes outside the South attend schools 95 to 100 per cent Negro, as opposed to 7 out of 10 Negroes in the 11 Southern states. Only 25 per cent of the Negroes outside the South attend majority-white schools, as contrasted with 18 per cent of the Negroes in Southern schools.

The survey shows too that 10 of the largest 20 city school systems in the country have majority Negro enrollments. In 16 of those systems, 60 per cent or more of the Negroes go to schools 95 to 100 per cent Negro—almost totally segregated.

A STENNIS CHALLENGE

Federal officials say they are deeply troubled by the extent of segregation the survey has uncovered. Sen. John Stennis, Mississippi Democrat, first previewed the findings in a series of speeches in December, in which he challenged the Government to pursue desegregation in the North with the same vigor it is pursuing desegregation in the South. "If segregation is wrong in the public schools of the South," he argued, "it is wrong in the public schools of all other states."

Mr. Stennis made the point in arguing that the Government should ease up on its efforts to promote desegregation of schools. Leon E. Panetta, HEW's chief civil-rights officer, on the other hand, told Congress two months ago that the answer is not to make segregation legal in the South but to pass legislation making it illegal everywhere.

Last week, in a pensive mood, Mr. Panetta reflected on the emerging pattern of resegregation in America and said: "Nobody really is considering what the answers to this situation are, and whether there aren't new injustices resulting from rectifying gross past injustices."

Ever since the Supreme Court held in 1954 that state-supported racial segregation was a denial of equal educational opportunity, the courts have been trying to undo the vestiges of the South's dual school system. With the passage of the 1964 Civil Rights Act, the Justice Department and HEW joined the battle to force recalcitrant school districts to adopt plans of racial balance.

TURNING ATTENTION NORTH

In the past two years, both agencies have begun turning their attention to school discrimination outside the South, but only a handful of non-Southern districts have been cited for discrimination. This is because racial separation in Northern districts is generally regarded as *de facto* segregation, a result of housing patterns, rather than—as in the South—*de jure*, the result of official law or policy.

Last week, in the second of seven suits filed by the Justice Department in non-Southern districts, a Federal district court ordered the Pasadena, Calif., school board to put into effect by next September a desegregation plan that would give none of its schools a nonwhite majority. The district—30 per cent black, 58 per cent white, and 12 per cent other minorities—was accused of discriminating in the making of school district boundaries, teacher assignments and other ways.

So far, few courts have held that the existence of *de facto* segregation itself is proof of discrimination, and the Supreme Court has not ruled on the issue. Yet the disparity continues between what is forbidden in the South and what is tolerated in the North, and the pattern of Northern separation begins to look more like its Southern counterpart.

For example, 17 Florida school systems, with two-thirds of the state's pupil population, are currently under Federal court orders to desegregate, two of them by Feb. 1 under a Supreme Court order. Seventy-two per cent of the Negro students in Florida attend schools in which Negroes constitute 95 to 100 per cent of the enrollment.

Yet 72 per cent of the Negro students in Illinios, according to the HEW survey, also attend schools with 95 to 100 per cent Negro enrollment, and there are no court orders compelling desegregation in Illinois. In fact, it can be argued there is more segregation in Illinois than in Florida. Theoretically it should be easier for Illinois, where Negroes make up 18 per cent of the student population, to place Negroes in majority-white schools than for Florida, where they make up 23.2 per cent. Yet there are proportionately more Negroes in majority-white schools in Florida (23.2 per cent) than in Illinois (13.6).

It seems likely that the courts will not for long be able to postpone consideration of such discrepancies in the application of national law. For a few Southern school districts, which have desegregated in accordance with the law, now find themselves victims of resegregation, ostensibly as a result of shifting housing patterns. One such district is Atlanta, where integration began eight years ago as the result of court suits initiated by the NAACP and other civil-rights groups.

TWO ESCAPE ROUTES

Since that time, 25 schools that were formerly all-white have turned predominantly black, as white parents have followed one of the two legal escape routes open to them: a private school or a home in the suburbs. Today, the school system, predominantly white before integration, is two-thirds black, but adjoining, suburban school systems are 80 to 95 per cent white.

If this appears to be *de facto* segregation Northern-style, Atlanta—because it had a dual school system until recently—is nonetheless still subject to a Supreme Court order of Jan. 14, requiring desegregation of schools in Georgia and four other Southern states by Feb. 1.

Southerners have long been grumbling about what they wryly refer to as "this dual system of justice" (one for the North, another for the South), and they are beginning to organize to combat it. Last week, Florida's Gov. Claude Kirk appealed to the U.S. Supreme Court to set national desegregation standards that would affect all 50 states. And the attorneys general of Louisiana, Mississippi, and Alabama announced a joint legal effort designed to ensure that "the same rules for administration of public schools" imposed by the Federal courts in the South apply to all other states."

The forces attempting to undermine enforced desegregation will get an unexpected assist next month with the publication of a book by Harper & Row, which challenges the Constitutional basis of court-ordered integration.

Entitled *The Supreme Court and the Idea of Progress*, and written by Yale University's Alexander M. Bickel, a Constitutional law authority of impeccable credentials among civil rights advocates, the book is an expanded version of the Holmes Lectures, which Professor Bickel delivered at Harvard Law School in October.

In a chapter on the Supreme Court's desegregation rulings, Professor Bickel argues the Court, beginning with the history-making *Brown* v. *Board of Education* decision in 1954, should have contented itself with finding that legally enforced school segregation is unconstitutional.

DUBIOUS SOCIOLOGY?

In going beyond that principle to argue that separate educational facilities are inherently unequal, says Professor Bickel, the Court based its reasoning on dubious sociology and a parochial view of American education, which holds that education's main duty is to promote assimilation. As a result, says Mr. Bickel:

"In most of the larger urban areas, demographic conditions are such that no policy that a court can order, and a school board, a city, or even a state has the capability to put into effect, will in fact result in the foreseeable future in racially balanced public schools."

Enforced desegregation, in other words, will merely force more whites into the suburbs or into private schools, leaving, Professor Bickel argues, only the poor—black and white—in the city schools.

It should be noted that there are many successful experiments in racial desegrega-

tion of schools. Several dozen Northern school districts, according to HEW estimates, have achieved full and voluntary integration by such techniques as altering attendance zones, busing and pairing of students to achieve racial balance. In White Plains, N.Y. for example, a quota system introduced in 1964 has not resulted in an exodus of whites. No school may have more than a 30 per cent or less than a 10 per cent enrollment of minority-group students.

But such plans; officials say, generally work in small or medium-size cities (White Plains' population: 65,000), where the population is stable and the blacks are in the minority. They often require, in addition, a rare degree of local leadership.

Central cities, on the other hand, experienced an increase of 2,400,000 in the Negro population between 1960 and 1968, and a decline of 2,100,000 in the white population, according to Census Bureau figures. While the figures are open to various interpretations, they nonetheless make it clear that great numbers of whites do not consider integration a primary social goal.

CHANGING NONWHITE ATTITUDE

Integration seems to be losing its attraction among nonwhites as well, at least as a short-run goal. Civil-rights leader James Farmer, now a high Nixon Administration official, said recently he has stopped trying to "sell Negro audiences on integration." The reason: "They don't agree on it any more."

In Philadelphia, where 60 per cent of the Negro school children attend schools that are 95 to 100 per cent Negro, officials report waning enthusiasm for busing black students to white schools to relieve overcrowding. "The people want to go to their neighborhood school," says school spokesman Robert S. Finarelli. "It's the state, not local people, pressing us for a desegregation plan."

The educational argument for integrated schools is based on the premise that minority-group children make their greatest achievement gains in an integrated environment. Numerous studies over the years, including the mammoth Coleman Report, issued by the U.S. Office of Education in 1966, have documented this thesis.

Conversely, there is relatively little information to indicate that spending more money in black schools in the slums does much good. "Most experiments in improving ghetto education have, quite frankly, been failures," says a U.S. Office of Education official.

That is why Government "integrationists" are so disturbed by the new finding of racial resegregation in the public schools. Leon Panetta, HEW's 31-year-old civil-rights chief, throws up his hands and shrugs. "We need a congressional examination of this whole question of the results of integration," he says. "In the meantime, we do what the law says we should do."

SHAKEDOWNS INTIMIDATE DISTRICT OF COLUMBIA STUDENTS

(By Carl Bernstein)

On Tuesday, police arrested a 12-year-old student at Simon Elementary School in Southeast Washington and accused him of robbing a classmate, Ernest Powell, 11 of a quarter.

The suspect was charged with a crime called "robbery fear"—meaning that fear was the weapon used in the alleged robbery.

Robbery-fear, which a layman might call extortion, is an accepted fact of public education in and around many of Washington's schools, according to police, students and school officials.

The problem has become so acute in at least one school—Shaw Junior High—that some students stay home out of fear, according to the principal.

"Essentially these incidents are shakedowns," says Officer James Gainer of the Washington police youth division.

"It's a continuous problem at all levels in the schools. The only thing unusual about the Simon case is that there was an arrest. Usually, the kids are too scared to complain about it."

Ernest told police he became frightened Tuesday when he saw a schoolmate walking toward him on the Simon playground at Mississippi Avenue and 4th Street SE.

The same boy had taken money from him before, after threatening to beat him, Ernest reported. Ernest also was beaten and robbed several weeks ago by three boys as he walked home from school, according to his grandmother.

So, on Tuesday, he handed his 25-cent daily allowance to a friend when he saw the same schoolmate walking toward him.

The student later charged with robbery then approached both boys and demanded the quarter he had seen Ernest pass to his friend, assistant principal Gloria S. Ingram said.

Kenneth Mathis, Ernest's 12-year-old companion, wasn't about to argue: In December, another student had taken $1.50 from him after threatening to beat him, his mother said yesterday.

"A quarter just isn't worth getting messed up over," she observed.

Police report that Anacostia—where Simon Elementary is located—has been particularly hard-hit by student shakedowns, although there seem to be few schools in the District unaffected by the problem.

"There's even a bridge near here that the children call the toll bridge," Principal James Carter of Hart Junior High School said yesterday. The school is located at 601 Mississippi Avenue SE.

The bridge, which crosses Oxon Run near Valley Avenue, takes its name from older students who "shake down smaller children before they let them go across," Carter said.

The Hart principal, who recently testified before Congress on safety problems in District schools, said shakedowns have become less frequent since increased police protection was ordered for schools in Anacostia two months ago.

"I'm sure it's still going on though," he added. "And it's going to get worse when the weather gets warmer."

According to police, most student shakedowns are committed either by older or bigger students or groups of three or four who will pick on a lone student.

"We could do something about it," says Officer Gainer of the youth division, "but the victims are afraid to complain. They know that kids have been beaten up for talking."

Even when students complain to school officers, Gainer says, a shakedown rarely results in an arrest.

"When it comes time for a confrontation, the kid who has done it says, 'I didn't take anything; I asked for a loan.' And then the one who go robbed gets scared and says maybe it was a loan after all."

Conversations with principals, students and teachers at a dozen schools in all areas of the city yesterday resulted in assertions that students at all 12 schools have been experiencing shakedowns.

In addition to Simon, the schools checked were Carver (in Northeast), Congress Heights (SE) and Langston (NW) elementaries; Alice Deal (NW), Hart (SE), Shaw (NW), Stuart (NE) and Randall (SW) junior highs; and Western (NW), Eastern (NE) and Ballou (SE) high schools.

"We need everybody on duty in the halls all day because of the problem," said Principal Percy Ellis of Shaw Junior High at 7th Street and Rhode Island Avenue NW.

"At lunch time it's terrible . . . We have at least one (shakedown) reported every day but there are a lot more than that going on. Some of the girls do it, too.

We've had complaints where students wouldn't come to school. The mother would go to work and then the student would slip back home because he was afraid he'd lose his money or get beaten up," Ellis said.

At Alice Deal Junior High in Upper Northwest, a teacher reported that lunchtime shakedowns are becoming more frequent.

"Sometimes if a student won't turn over money he'll get his lunch tray snatched," the teacher said.

At Western High in Georgetown, students who take buses to school from the inner city say they have been shaken down by schoolmates who ride with them.

"It goes on all the time," said a sixth grader at Congress Heights Elementary School, 5th Street and Nichols Avenue SE. "There's nothin' you can do about it if there's a bunch of them or if somebody's bigger than you are . . . If you report it to the principal, they'll beat you up."

Leroy Dillard, a former principal who now is assistant to Acting School Supt. Benjamin Henley, says shakedowns "are nothing new . . . but like everything else they've taken a turn for the worse.

"Many people have considered them a minor problem before," Dillard says, "but they're a frightening and traumatic thing for many of our children . . .

"I really believe it's a way of life for some of these kids. It's survival of the fittest; it's a reflection of our whole community. They know they're wrong, yet it is part of their living."

The shakedowns will stop, Dillard believes, "only when we get people aroused to the point where they want to make their communities, neighborhoods and schools safe."

BLACKS RIOT IN FLORIDA SCHOOL TRANSITION

GAINESVILLE, FLA., January 29.—Several hundred black students ran screaming into the street from Lincoln High School today, stoning cars and attacking passersby in apparent frustration over the closing of their school. Police quelled them with tear gas.

At least two persons were reported injured in the outburst of violence at the school, due to be closed after Friday under the Supreme Court's desegregation orders.

Several cars were damaged and school windows were smashed. One man, identified as Charles Tanner, was injured by a brick that smashed his windshield. A woman was reported dragged from her car and beaten.

After the crowd dispersed, police roped off the area and authorities cancelled Friday's classes.

Lincoln is part of a school district ordered by the Supreme Court to begin operating totally desegregated schools by Feb. 1. Under school board plans, Lincoln will be closed and its students integrated with those at Gainesville High.

The black students of Lincoln and their parents have bitterly protested the closing. In December, many of them boycotted the school to protest the closing and returned only after a judge threatened to cite them for truancy.

INTERRACIAL VIOLENCE IN SCHOOLS REQUIRES A NATIONWIDE SURVEY

(By Joseph Alsop)

It is a hundred to one bet that President Nixon's report on the state of the nation will take no note of a key fact so dangerous that everyone in this nation ought to be thinking about it.

The fact is that something perilously close to race war has now begun in just about every integrated high school in the United States. This is not a Southern problem. It is a nationwide problem, with future political implications so grave that we dare not go on being ostriches about it.

First, however, let us examine the facts, which are not easy to ascertain with absolute precision. This reporter began the attempt about 10 days ago. The spur was a talk with young men in the Office of Education, whom Commissioner of Education James

Allen had told to go out and find out, on the spot what was really happening to the U.S. school system.

Their story, as some may remember, as downright hair-raising. They estimated that one-half the center city high schools and about 30 per cent of the suburban high schools had serious hard-drug problems. They further told a melancholy tale of widespread interracial violence in the high schools.

This seemed serious enough to call for further inquiry, and inquiries were duly made. School officials were queried. So were leading figures in the academic-educational world, like Dr. John Naisbitt, of the Urban Research Corporation, which is linked to the University of Chicago, and Prof. Mark Chesler, of the Institute for Social Research at Wisconsin University.

Concerning the racial problem, the results of these inquiries were so disturbing that a more scientific, high-school-by-high-school nationwide census is clearly in order. God pray such a census, if taken, will show different results from the spot check thus far made.

One must make that prayer, because the spot checks failed to reveal *any* integrated high school, anywhere at all, that was free of the poison of simmering racial conflict. Mercifully, it is mostly just simmering—taking the form, that is, of minor aggressions between whites and blacks.

In too many places, moreover, the simmering conflict has already boiled up, or may soon boil over, into major violence between whites and blacks. And in New York, Chicago and elsewhere, there are actually high schools where the race war is so serious that large numbers of police have to be continuously stationed in the school buildings.

The trouble centers in the high schools for two obvious reasons. One is the fact that high school pupils have reached fighting-age. The other is the fact that pupils from different neighborhoods, often with little prior experience of integrated schooling, naturally tend to be mixed up together when they go on to high school.

With reason, Commissioner Allen is deeply concerned about this problem. Last Monday, he held a meeting with men from other potentially interested federal agencies, in the Justice Department and elsewhere. The topic was possible federal leadership in the search for a solution of the problem.

In a few high schools again, although the conflict is still there, something is at least being done about it. In Cleveland, for instance, Shaker Heights High School has inaugurated what are called "dialogue groups." And it offers human relations courses, and is experimenting with other ways to keep things cool.

Yet the widest inquiries have failed to locate any truly informed man of goodwill who is not deeply discouraged. If you consider the problem politically, moreover, this problem is not just a source of discouragement about the orneriness of human nature. It is a source of really frightening danger to the American political future.

Anyone ought to be able to figure out the automatic effect of racial attitudes of both parents and pupils of virtually omnipresent racial conflict in the integrated high schools. Even if there are no more than minor aggressions, requiring no outside intervention, causing no public clamor, the effect must still be the widespread promotion of prejudice and hatred.

The nauseous George C. Wallace has already spotted that. He is now out to solidify his Southern support by exploiting the special Southern school situation. But he will surely be heard from all over the country, unless the decent majority of both races goes into action pretty quick.

Mr. STENNIS. Mr. President, will the Senator yield briefly?

Mr. BYRD of West Virginia. I yield.

Mr. STENNIS. Mr. President, as a lawyer the Senator has given one of the soundest and most impartial viewpoints regarding the law and all its implications that I have ever heard on this immediate subject.

I think it is outstanding and will contribute greatly not only to this debate, but also to the history of the problem.

There is a solution of some kind on the way. And I believe that a great deal of the solution will be based on many of the things the Senator has said.

We owe the Senator a debt of gratitude for the preparation of his speech and the effort he devoted to the subject.

The Senator said that he speaks not as a southerner or as a northerner. But he certainly speaks as a sound lawyer who has a great knowledge of our system of government and the practicalities of this problem.

I do think that we are all interested in the problems that the Senator described so well.

I believe that a great part of his thought will be involved in the permanent solution of the problem.

Mr. BYRD of West Virginia. Mr. President, I thank the Senator.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I yield.

Mr. ERVIN. Mr. President, I congratulate the distinguished Senator from West Virginia on the fine exposition he has made concerning the 14th amendment and the impact which forced integration has upon the liberties of the American people and the social questions which this matter has involved.

I would like to ask the Senator if all of these things being done to force integration are not being accomplished under the pretext that they are authorized by the equal protection clause of the 14th amendment.

Mr. BYRD of West Virginia. The Senator is correct.

Mr. ERVIN. Mr. President, the equal protection clause of the 14th amendment says, in very simple language, that no States shall deny to any person within its boundaries the equal protection of the laws. Was that language not placed in the Constitution to deny States the power and the right to have one law for one man or one group of men and another law for another man or another group of men, when those men or group of men were in similar circumstances?

Mr. BYRD of West Virginia. The Senator is correct.

Mr. ERVIN. Also, does not the equal protection clause mean this and nothing more—that a State is required to treat in like manner all persons in like circumstances, or, to state it in a negative way, a State is prohibited from treating differently people who are similarly situated?

Mr. BYRD of West Virginia. The Senator is again correct.

Mr. ERVIN. The Senator has performed a real service by pointing out the paradoxical situation which has transpired in our country in this area. As the Senator so well and so eloquently indicated, in 1954 the Supreme Court held that under the equal protection clause a State could not deny to any child admission to any school for which the child was otherwise qualified.

Mr. BYRD of West Virginia. The Senator is correct.

Mr. ERVIN. Now, the same Court is trying to twist that around and say that the equal protection clause requires the State to treat children differently and requires them to take into consideration their race.

Mr. BYRD of West Virginia. The Senator is correct. Moreover, in the intervening time there has been no change in the verbiage of the 14th amendment.

Mr. ERVIN. I would like to ask the Senator if the 14th amendment is not a limitation of certain prohibited action on the part of the State and that it has no reference to individuals.

Mr. BYRD of West Virginia. The Senator is correct and the courts have so interpreted it in the past.

Mr. ERVIN. I will ask the Senator if there is any basis whatever for construing the equal protection clause as establishing any limitation whatever on the freedom of any individual.

Mr. BYRD of West Virginia. I believe not.

Mr. ERVIN. Is not the effort to impose forced integration upon the schools of the South an effort to deny little children their freedom because it denies them the right to go to their neighborhood schools and requires them to go to another school, or to remain in the neighborhood school, solely on the basis of race?

Mr. BYRD of West Virginia. The Senator is correct.

Mr. ERVIN. I ask the Senator from West Virginia if he noticed an article in the press recently where a little 14-year-old boy out in Oklahoma, obeying all the instructions of his parents, refused to get on the bus and ride to a new school to which he had been assigned by the court?

Mr. BYRD of West Virginia. Yes; I recall reading of that disgraceful episode.

Mr. ERVIN. Does not the Senator from West Virginia agree with the Senator from North Carolina that if the Bible emphasizes one thing over another in the duty of children, it is that they obey their parents?

Mr. BYRD of West Virginia. There is no doubt about it. That is one of the Ten Commandments—that they honor their father and their mother.

Mr. ERVIN. According to the press statement, did not the United States marshal, the highest law enforcement officer in the United States, take this 14-year-old boy, whose only offense was that he obeyed the instructions of his parents, and place him in custody until the school to which he was supposed to go had closed?

Mr. BYRD of West Virginia. The Senator is correct, to the everlasting discredit of the marshal and those who required the Federal official to so act.

Mr. ERVIN. Did the Senator read a few days later that the Federal judge who issued this decree took the little boy's mother and father, placed them in jail, and fined them $1,000 each?

Mr. BYRD of West Virginia. The Senator is correct. The whole episode was a shameful commentary on American justice.

Mr. ERVIN. We had an order issued by a district court in North Carolina a few days ago requiring the busing of 5,000 black children from black sections to other sections and the busing of 5,000 white children from white sections to other sections.

I received a telephone communication from the father of a fifth grade girl. He told me that he and his wife moved to Charlotte a few months ago; that he had spent 4 months trying to find a house they were financially able to purchase; close to a school; and that at long last they found a house one block from the school. Now, under order of this judge, their 5-year-old daughter will have to be placed on the bus each day and transferred to a school in a different part of the area. She will have to spend 2½ hours a day riding to and from school on the school bus. Does the Senator think that this bus ride contributes anything to the education of that little fifth grade girl or contributes anything to the respect we think citizens of the United States should have for their Government?

Mr. BYRD of West Virginia. Quite to the contrary, I think it contributes to discontent on the part of the child and the parents, and disrespect for the public school system and the court system in the United States.

Mr. ERVIN. I wish to ask the Senator one or two questions about the courts. If the Senator does not care to respond to the questions, it is all right with me. I do not mind talking about the courts, because to me tyranny on the bench is just as reprehensible as tyranny on the throne. I would like to ask the Senator, in view of recent efforts to bring about forced integration as speedily as possible, if the Supreme Court has not refused hearings to Southern States and the Governors of Southern States, and rendered adverse judgments, without having a hearing or giving State representatives an opportunity to be heard.

Mr. BYRD of West Virginia. Summarily so.

Mr. ERVIN. Of course, we are all accustomed to the old philosophy that justice is blind; but do we not have a right to expect that justice will not be deaf?

Mr. BYRD of West Virginia. I agree.

Mr. ERVIN. Is it not denial of due process to refuse to give a hearing to a person who wishes to be heard?

Mr. BYRD of West Virginia. I should think so.

Mr. ERVIN. I wish to ask one question about freedom of choice. A freedom of choice system which gives the parents of all the races the right to select the school their children attend is certainly in perfect harmony with the equal protection clause of the 14th amendment in that it treats all persons in like circumstances alike. Is that not correct?

Mr. BYRD of West Virginia. If it is a bona fide freedom of choice, and not one meant to subvert or serve as a subterfuge in order to avoid living up to the decision of the court in the Brown case of 1954.

Mr. ERVIN. In other words, where the school board, acting in good faith, opens up all schools under its jurisdiction to children of all races and allows the parents of those children to select the school they attend, that is about the finest and fairest way the equal protection clause rightly interpreted can be considered. Is that not true?

Mr. BYRD of West Virginia. To my thinking it is.

Mr. ERVIN. Does the Senator from West Virginia recall that about 2 years ago Congress passed a law making punishable by fine or imprisonment those who used force or the threat of force to dissuade a person from enrolling or attending any school on account of that person's race?

Mr. BYRD of West Virginia. Yes.

Mr. ERVIN. So if the Department of Justice enforces a law there can be no use of violence or threat of violence to prevent any child of any race from attending a school because of race.

Mr. BYRD of West Virginia. Or to compel him to attend any school on the basis alone of race or color.

Mr. ERVIN. I agree with the Senator. I do not see how any American who believes what America has always proclaimed, namely, that freedom of the individual is the supreme value of civilization, can oppose freedom of choice in the assignment of students to schools. This is true because, to my mind, when you give the parents of children of all races the right to select the school to attend you give them an equality of freedom and that is certainly the American ideal. Is it not?

Mr. BYRD of West Virginia. I think it is.

Mr. ERVIN. I thank the Senator. I wish to compliment the Senator again on such fine presentation of the law, the Constitution, the social problems involved, and the impact which forced integration is having on the freedom of our people.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I yield to the distinguished Senator from South Carolina.

Mr. THURMOND. I would like to commend the able Senator from West Virgina upon the objective and impartial manner in which he has presented what I would consider an eloquent and a brilliant address on the subject of freedom of choice. I think the Senator from West Virginia has put his finger on the key point in the Brown decision and the decisions of the courts in distinguishing between desegregation and integration. The Brown decision held that schools must be desegregated. That means that the schools must be open to all children of all races.

Integration is an entirely different matter. Forced integration means that a child must be forced to integrate, must be forced to go to another school. The court did not go that far.

Freedom of choice is, in effect, complete desegregation. It opens all schools to all children of all races; and, as I understand, that is the position of the Senator from West Virginia as he has spoken here today. Is it not?

Mr. BYRD of West Virginia. The Senators is correct.

Mr. THURMOND. The Senator was here in 1964 when the Civil Rights Act was passed. Does the Senator know of anything in that act that gives authority for an order to achieve racial balance in any school by requiring the transportation of pupils or students from one school to another, or one school district to another, or to enlarge the existing power of the courts to insure compliance with constitutional standards?

Mr. BYRD of West Virginia. Quite to the contrary. The junior Senator from West Virginia was assured at that time by the then Senator from Minnesota and majority whip, later Vice President, Hubert Humphrey, that there was nothing in the act which could be regarded as requiring any State to take any action to overcome racial imbalance in the public schools.

Mr. THURMOND. In fact, did not that act of 1964 define desegregation as not meaning the assignment of students to public schools in order to overcome racial imbalance?

Mr. BYRD of West Virginia. Precisely so.

Mr. THURMOND. That was a definition in the act?

Mr. BYRD of West Virginia. Unquestionably so.

Mr. THURMOND. In the last appropriation bill it was provided that funds contained in that act would not be used for the forced busing of students, the abolishment of any school, or to force any student attending any elementary or secondary school to attend a particular school against the choice of his or her parent or parents in order to overcome racial imbalance. Is that not exactly what the orders are being issued for today in many cases, or is the Senator familiar with it?

Mr. BYRD of West Virginia. Well, it appears that they are to be so regarded as requiring action to overcome racial imbalance and to bring about some degree of racial balance. This is prohibited by the 1964 act, and it is not required by the 14th amendment to the Federal Constitution.

Mr. THURMOND. Two districts in my State were ordered to desegregate immediately. They are not segregated. Both districts had opened all of their schools to children of all races. It is really forced integration. That is what they are being required to do now.

In the same appropriation bill to which I referred, section 410 provides that funds contained in the act shall not be used to force busing of students as a condition precedent to obtaining Federal funds otherwise available to any State, school district, or school.

That is being violated today. The Federal Government is threatening to withhold funds unless they integrate.

These districts in South Carolina are not being required to desegregate—they are already desegregated; they are being required to forcefully integrate and to abolish certain schools and to bus to other schools miles away. That is completely contrary to the Constitution.

The Civil Rights Act of 1964 provides power to Congress to forbid the use of public funds to create racial imbalance, but it has to be proved that this is the result of a State law or deliberate discrimination locally. Is that correct?

Mr. BYRD of West Virginia. I believe so.

Mr. THURMOND. In many places today parents are being forced to bus their children or to send them to a distant school in order to correct racial imbalance. Today when I spoke at St. John's University in New York, I brought out some figures showing the situation there. The students, I may say, seemed to be amazed. For instance, in New York City, the very city in which the school is located, 80 percent of the blacks are in schools over half black, 44 percent in schools over 95 percent black, and 34 percent in schools 100 percent black. That is in New York City. More than one-third of the blacks there are in 100-percent black schools.

It is very difficult for the people down South to understand why, when integration exists on such a vast scale in some of the Northern States, and in the South all schools are desegregated and open to students of all races, forced integration must be practiced there.

I also brought out, for instance, with respect to the percentage of desegregation, that in Chicago only 3.2 percent of the schools are integrated, leaving 96.8 percent segregated.

In Gary, Ind., the figure is 3.1 percent, leaving 96.9 percent segregated.

In Buffalo, N.Y., it is 31 percent, leaving 69 percent segregated.

In St. Louis, Mo., it is 7.1 percent, leaving 92.9 percent segregated.

I gave the figures for New York City—19.7 percent, with 80.3 percent segregated.

In Cincinnati, it is 29.8 percent, leaving 70.2 percent segregated.

In Milwaukee, it is 22.4 percent, leaving 77.6 percent segregated.

Again, I want to congratulate the distinguished Senator from West Virginia. I think he has made a very fine contribution here on the floor of the Senate today, and I think he has made one of the finest, one of the most objective, and one of the most enlightening speeches on this subject I have heard on the floor.

Mr. BYRD of West Virginia. I thank the Senator. I strove to make it an objective one, and I hope it was an objective speech.

Mr. JORDAN of North Carolina. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I yield.

Mr. JORDAN of North Carolina. I want to commend the able Senator from West Virginia for the fine speech he has made. I think it is certainly one of the ablest and most descriptive speeches we have had on this subject.

As the Senator pointed out, his State is neither a Northern State nor a Southern State, but a border State; and his speech was objective. It was not biased one way or the other.

Mr. BYRD of West Virginia. If the Senator will yield, West Virginia extends farther north than Pittsburgh, Pa., farther east than Buffalo, N.Y., farther south than Richmond, Va., and farther west than Columbus, Ohio.

Mr. JORDAN of North Carolina. So the Senator has a pretty good idea of East and West, North and South.

Mr. BYRD of West Virginia. I like to think so.

Mr. JORDAN of North Carolina. The Senator does, and he certainly brought out all the facts in the Supreme Court decisions down to date.

Mr. BYRD of West Virginia. Further, along that line, if the Senator will allow me facetiously to comment, West Virginia is the State where the East says "Good morning" to the West and where Yankee Doodle and Dixie kiss each other "Good night."

Mr. JORDAN of North Carolina. As the Senator knows, I am not a lawyer. But I wish to associate myself with the remarks of my senior Senator and colleague from North Carolina. I do not think there is a better lawyer in the Senate than he. I think he is one of the ablest constitutional lawyers there is, and I wish to associate myself with the discussion he had with the Senator from West Virginia relative to the constitutionality of the matter we are discussing now, which the Senator agreed to and they discussed at length, because I know he is correct in his position.

So far as I know, we have no problem with the freedom of choice in our schools in North Carolina. The schools in the little neighborhood where I live, and which my grandchildren attend, are integrated. I have heard no complaint about it one way or the other. They are getting along all right. All we ask is to let us go ahead and operate our schools in that manner.

North Carolina schools are operated by the State. All the schoolteachers, black and white, are paid the same basic salary all over the State. It has been that way for years. Compulsory education has been in existence in North Carolina for many years.

The black schoolteachers, a few years ago, as a whole, drew more salary than did the white teachers. There was a good reason for that. All starting teachers get the same amount of pay, and each year receive increases in salary. When they get a master's degree, it puts them up in another bracket. Our black teachers have conscientiously worked hard, stayed with the school system, and built up their education, their retirement, and their salaries. They have done a good job, and there has been no problem with them.

It is distressing to us to have the turmoil and strife that is being generated through some of the court orders under which we are being compelled to operate. As I said a while ago to the Senator from Minnesota, the city of Winston-Salem and that county had 422 schoolteachers who had to change schools as of February 1 of this year. Teachers had to go to brandnew schools, without knowing any of the pupils. Some of them have to drive from Winston-Salem way out in the county. The teacher starts early in the morning to go out there, and the pupil has to go back the other way.

That has not brought about harmony, nor created a better school system in that county, one of the finest counties you will find anywhere.

Furthermore, under the order they will have to close five good schoolhouses. That means the students they put in another school will cause classrooms to be overcrowded, the teachers will have a bigger load than they have had before, and that does not create a better climate for education.

They say, "You will have to build some more schoolhouses," but that costs money, and where are you going to build them?

The same thing has taken place, as I pointed out and Senator ERVIN pointed out, in the city of Charlotte, which right now is under a court order, by April 1, to bus at least 10,000 children—of course, the law says you do not have to bus them, but that is the only way they can move them from one part of the county to the other—and it will require, I am told today, at least 500 buses to accomplish that. That represents a lot of money; and they could not get 500 buses by April 1, anyway. There are not that many available. When they are available, it will cost an estimated $2.2 million just to operate those buses, to bus those children back and forth, more than the present system.

I am certain in my mind that the people of Charlotte and the people of Mecklenburg County, where this is taking place, want to have good schools. They want to treat every child alike. They want to educate the black and the white on an unbiased basis, and let them go to any school they want to in the area where they want to go. There has been no objection to that, so far as I know—no clamor and no great upheaval—but they are tremendously concerned about this order now, and it is causing chaos in our school system in that city.

That should not have to be. I hope very much that we can adopt the amendment offered by the distinguished Senator from Mississippi, which is the New York law. I am the cosponsor of that same language in another bill. All we are asking is that in North Carolina, Tennessee, Mississippi, or anywhere else, we may just operate under the same law they do. That is all we are asking. We do not want any special law, nor any special treatment. We would like to be treated like the rest of this country.

I think that the wisdom of the Senate will prevail, and that will happen.

Mr. BYRD of West Virginia. Mr. President, I thank the Senator for his legitimate concern over what is happening to the public schools in his State and elsewhere.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I yield to the Senator from Alabama (Mr. ALLEN).

Mr. ALLEN. Mr. President, I commend my distinguished friend, the able Senator from West Virginia, on the splendid, scholarly address he has given on the subject of freedom of choice, and on his discussion of the Supreme Court rulings in the matter of desegregation.

Since I have been in the Senate, I have observed the Senator from West Virginia, his statesmanlike position, the diligence with which he pursues his duties here on the Senate floor, the way that he stays in touch with his constituents, and the great public service that he is rendering to the people of his State and the people of this Nation; and I would say that the speech which the Senator from West Virginia has given on this subject today is an outstanding

speech, and one of the greatest speeches it has been my pleasure to hear since coming to the Senate.

I am a great admirer of the distinguished Senator from West Virginia. We appreciate him in our State. We appreciate his statesmanship. We appreciate the great work that he has done for this country. He is not only one of the ablest Members of the Senate, he is a great statesman for the Nation, and I feel that the distinguished Senator from West Virginia is one man in the National Democratic Party that the South would rally to in a future nationwide political race. We admire and appreciate the distinguished Senator from West Virginia, and I wanted, on behalf of the people of Alabama and the people of the South, to commend him on this great address. His logic is unassailable, his reasoning is certainly unanswerable, and I do not believe that his logic will be assailed in any future speech on the Senate floor. My commendation, again, to the distinguished Senator from West Virginia.

Mr. BYRD of West Virginia. Mr. President, I thank the Senator for his overly generous, charitable, and gracious remarks.

Mr. STENNIS. Mr. President, if the Senator will yield, I think the Senator's handling of the equal protection clause of the Constitution of the United States on this subject matter is the best that I have ever heard. It was clear as crystal, true, and sound; and I believe his interpretation will be referred to, and finally adopted.

Mr. BYRD of West Virginia. I thank the Senator very much. He flatters me, but I would never doubt his sincerity in everything he says.

Mr. MONDALE. Mr. President, I rise again to underscore and explain my opposition to amendments Nos. 462, 463, 469, 471, 472, 473, 474, 475, and 481, which may be offered to the Elementary and Secondary Education Act. All of these amendments deal with the subject of school desegregation. They contradict decisions of the U.S. Supreme Court in this field. It appears that they are designed to cripple the school desegregation program, severely restrict the authority of title VI of the Civil Rights Act of 1964, and weaken existing protections under the 14th amendment of the Constitution. In short, these amendments appear to be designed to compromise our country's commitment to human rights. I join with the administration, and the Leadership Conference on Civil Rights, in calling for their defeat.

CIVIL RIGHTS ACT OF 1964

Much of the progress which has occurred in the desegregation of hospitals, formerly dual school systems, and other public facilities, is a result of the enforcement of title VI of the Civil Rights Act of 1964. Section 601 of this title provides that:

> No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

FREEDOM OF CHOICE

Several of these amendments are intended to require the Department of Health, Education, and Welfare—in its enforcement of title VI—to accept so-called "freedom of choice" desegregation plans whether or not these plans are effective in ending discrimination and unconstitutional segregation of schools.

"Freedom of choice" student enrollment plans have been defined by HEW as:

> A system of assigning students to school by requiring all students, or their parents to make a choice of school.

Experience under the school desegregation program has demonstrated that in many cases the use of the so-called freedom of choice plan has simply served to maintain existing discriminatory and unconstitutional segregation in the schools. HEW and the courts have found that in many communities, direct intimidation, harrassment, or indirect social and economic pressures have been used to discourage Negroes from choosing to attend a white school.

As a result of this experience, the Supreme Court has held that freedom of choice plans are acceptable only when these plans result in the elimination of discrimination. The Supreme Court made this clear in its unanimous decision on May 27, 1968, in Green against County Board of New Kent County, Va. The Court said:

> In desegregating a dual system, a plan utilizing freedom of choice is not an end in itself . . . The burden on a school board today is to come forward with a plan that promises realistically to work, and promises realistically to work *now* . . . It is incumbent upon the school board to establish that its proposed plan promises meaningful and immediate progress toward disestablishing State-imposed segregation.

The Court said further in Green that if:

> There are reasonably available other ways, such for illustration as zoning, promising speedier and more effective conversion to a unitary, nonracial school system, "freedom of choice" must be held unacceptable.

The Court also quoted Judge Sobeloff in Bowman against County School Board:

> Freedom of choice is not a sacred talisman; it is only a means to a constitutionally required end—the abolition of the system of segregation and its effects. If the means prove effective, it is acceptable but if it fails to undo segregation, other means must be used to achieve this end. The school officials have the continuing duty to take whatever action may be necessary to create a "unitary, non-racial system."

In view of the experience under so-called freedom of choice plans, and Court decisions concerning this, adoption of amendments legalizing freedom of choice would be a tragic step backward in the effort to comply with the Civil Rights Act of 1964. I oppose the adoption of these damaging amendments.

FACULTY SEGREGATION

The amendment concerning faculty segregation would prohibit the withholding of Federal financial assistance—the enforcement proceeding authorized under title VI of the Civil Rights Act of 1964—to induce the transfer of faculty members from one school to another in order to desegregate unconstitutionally segregated schools.

It has been well established by several Court decisions that faculty segregation plans are essential components of a constitutionally adequate desegregation plan. The adoption of this amendment would prohibit practices which the courts have held are constitutionally required in some cases, and by so doing, place unreasonable restrictions on the title VI school desegregation program. I oppose this amendment for that reason.

BUSING

The requirements concerning the authority of the Department of Health, Education, and Welfare to require busing are quite explicit. HEW is only permitted to propose or accept busing to desegregate in the case of segregated schools which were created by deliberate discriminatory practices involving public policy. In these districts, affirmative action must be taken to correct the violation of title VI of the Civil Rights Act of 1964.

Therefore, in negotiating for compliance under title VI, HEW may recommend, and local school districts may adopt, desegregation plans that reschedule, reroute, or unify the previously existing bus system, particularly if such a system is being used to maintain segregated education. In the vast majority of cases, the Department reports that additional busing is not involved for the school district; in some cases desegregation results in less busing. If this amendment were adopted, the flexibility of HEW and local school districts in working out effective and practical desegregation plans complying with the law of the land would be severely restricted. I therefore oppose this amendment.

CLOSING OF SCHOOLS

The amendment with respect to HEW's authority concerning the closing of schools would similarly limit the flexibility of local school systems in complying with the nondiscrimination requirements in law. HEW does not require the closing of schools. It discourages closing useful educational facilities in order to desegregate. There are some cases, however, in which school districts have chosen to close usable all-Negro facilities instead of desegregating them in the belief that white children would not attend them under desegregated conditions. This amendment would limit the flexibility of school districts in working with HEW to develop plans for desegregation within the requirements of the Constitution and I oppose it for that reason.

ACCESS TO COURTS

One amendment would restrict Federal courts from providing effective relief when constitutional rights have been violated. I oppose this attempt to prevent courts from providing relief where they have found that unconstitutional segregation exists.

AMENDMENT NO. 463

Of all the amendments concerning school desegregation, amendment No. 463 contains the most confusing and far-reaching implications. The amendment states that:

> It is the policy of the United States that guidelines and criteria established pursuant to Title VI of the Civil Rights Act of 1964 and Section 182 of the Elementary and Secondary Education Amendments of 1966 shall be ap-

plied uniformly to all regions of the United States in dealing with conditions of segregation by race in the schools or the local educational agencies of any state without regard to the origin or cause of such segregation.

The references in this amendment to "segregation" and "without regard to the origin or cause of such segregation" imply a substantial but unclear change in existing law with respect to desegregation. The issues raised by these references concern the distinction between "segregation" and "discrimination," and the distinction between "de facto" and "de jure" segregation.

Title VI of the Civil Rights Act of 1964, school desegregation guidelines, and recent court decisions refer to discrimination and de jure segregation. Title VI prohibits discrimination in federally assisted programs. It applies to de jure segregation—segregation which has been caused by, or is a vestige of, official acts of public discrimination—such as the establishment of dual, racially segregated school systems, or official gerrymandering of school districts.

Title VI does not, however, provide that racial segregation per se is illegal or unconstitutional. What has been called racial isolation, racial imbalance, or de facto segregation caused by adventitious events such as residential patterns is not subject to the desegregation requirements of title VI of the Civil Rights Act or recent court decisions.

In fact, the Congress has been explicit in its decision that the school desegregation program shall not apply to situations of racial imbalance or de facto segregation. For example, section 401 of the Civil Rights Act states that:

> Desegregation shall not mean the assignment of students to public schools in order to overcome racial imbalance.

The effect of these laws and court decisions is that the existence of segregation is not an end of itself sufficient to invoke the enforcement mechanisms of the school desegregation program.

The enforcement mechanisms of the school desegregation program are only invoked where segregated schools are the result of deliberate and official public policy. The trigger for school desegregation enforcement is a finding of discrimination, not simply a finding of segregation. In the case of segregated schools, the origin or cause of such segregation determines whether the title VI school desegregation program is applicable or not.

I think it is terribly important to understand not only that this distinction between de jure and de facto segregation exists, but also that the existing law is applied uniformly. Wherever discrimination or de jure segregation is found—in the North, South, East, or West—it is unconstitutional and subject to administrative enforcement under title VI or court action.

A substantial amount of the school desegregation effort has been focused on the South because until 1954, when the Supreme Court declared they were unconstitutional, laws mandating dual, racially segregated school systems existed in 17 Southern and border States. The courts have accepted as a reasonable presumption that segregated schools in these States have resulted from those official policies.

Since Northern and Western States did not have laws requiring segregated school systems at this late date, the task of establishing official responsibility for de jure segregation in the North has been more difficult. However, the Office of Civil Rights in the Department of Health, Education, and Welfare, assigns an equal number of its staff to the problems of segregated schools in the North, has conducted reviews to determine whether racial imbalance in Northern school districts is the result of deliberate official acts of discrimination, and is taking administrative action to require desegregation where it finds evidence of discrimination.

This aspect of the title VI school desegregation program was clearly described by Mr. Leon Panetta, Director of the Office of Civil Rights, Department of Health, Education, and Welfare, in his testimony before the Labor–HEW Subcommittee of the Senate Appropriations Committee last fall. Mr. Panetta said:

> Nevertheless, questions have arisen as to whether enforcement policies in the North differ from those applied in the South—whether, as a practical matter, there is one set of rules for the South and another set of rules for the rest of the country.
>
> The law prohibits racial discrimination at schools receiving Federal assistance—and let me make it clear that the law has been applied equally throughout the country.
>
> In all cases of racial segregation, whether in the North or in the South, a finding of discrimination must be supported by evidence to the effect that such segregation was brought about purposefully by law or by administrative action. If there is such a finding, the law requires affirmative steps to correct that situation of discrimination.
>
> Now, it is true that racial isolation in Northern school systems is often as acute as racial isolation in Southern school systems. But establishing official responsibility for such segregation in the North is far more difficult than in Southern states, where until recently rigid dual school systems were maintained by law or formal custom and where today the residual effects of this discrimination are readily apparent.
>
> In the North, although school systems may have at various times established and maintained particular schools for minority students, many years have elapsed since rigid racial segregation existed as a matter of formal policy or practice. Consequently, evidence of discrimination must be sought in the administrative actions of local authorities—a process that invariably requires the examination of hundreds and thousands of individual decisions made by school officials over a period of years.

Racial isolation, wherever it occurs, and for whatever the cause, presents many problems. I believe these problems require far more attention than the Congress has devoted to them in the past. The Senator from Mississippi (Mr. STENNIS) has done the Senate a service by focusing this debate on the question of racial imbalance and de facto segregation. In much the same way that the Congress faced up to the challenge of a national open housing policy—and I am proud to have led the fight for open housing legislation—we must adopt a reasonable and just policy with respect to de facto segregation.

I do not believe, however, that this amendment represents such an approach. I do not think we can, on the basis of floor debate alone, on an ambiguous amendment, shape a responsible policy for a problem area which up to this point has been exempt from desegregation requirements.

What, for example, is the legal consequence of the "policy declaration" used in this amendment? How would the term "segregation"—undefined in this amendment—be construed? What test of "desegregation" would be used in a situation of de facto segregation since existing guidelines simply require the disassembling of the dual school system? Would this amendment require that racial percentages be established in the guidelines? Would the amendment require more vigorous enforcement of the open housing law? Would it apply only to core cities or metropolitan areas? Why does it refer only to "race" and not "color" or "national origin"?

Most importantly, how would this amendment relate to existing law in this field, such as the provisions which limit the authority of HEW to deal with situations of "racial imbalance." While the apparent intent of the amendment is to break down the established distinction between de facto and de jure segregation, there is serious question about whether its effect would be to require movement against de facto segregation or restrict movement against de jure segregation.

At best, this amendment, by establishing two very contradictory desegregation requirements in Federal statutes, would produce an ambiguous desegration policy. At worst, it might produce an unenforceable one. Since existing law prohibits the application of the guidelines to situations of de facto segregation, and this amendment requires these guidelines to be applied "uniformly, without regard to the origin or cause," the result might be that the guidelines could not be applied to any form of segregation, either de facto or de jure.

Mr. President, I do not believe that the Senate can act responsibly, as it should, in this area by adopting on the basis of a floor debate alone an ambiguous amendment proposing to break new ground in such a serious area. Amendment No. 463 raises a legitimate and important question, but does not answer it. We know what the laws on discrimination mean, and despite any implication to the contrary, we apply these laws uniformly to all sections of the country. We do not, however, know what this amendment means, or what it would do. It would seem to me that the reasonable course of action would be to examine this amendment in committee, along with at least one other bill dealing with this problem which I understand has been introduced by the Senator from New Jersey (Mr. CASE). For these reasons, I am prepared to support that effort which would refer this amendment to an appropriate committee for review and recommendation.

I ask unanimous consent that a copy of the letter from Commissioner Allen to Senator PELL appear at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., February 6, 1970.

Hon. CLAIBORNE PELL,
Chairman, Subcommittee on Education, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR SENATOR PELL: This is in response to the Committee's request for the views of the Department of Health, Education and Welfare with respect to several amendments proposed to H.R. 514, an Act to extend programs of assistance for elementary and secondary education, and for other purposes.

The proposed amendments deal with a serious educational matter, the subject of school desegregation. They would affect the enforcement of the non-discrimination requirements of Title VI of the Civil Rights Act of 1964 and, as a result, would affect the educational opportunities of children.

As an educator, I am convinced that segregation by races in our Nation's schools for any reason is unsound educationally, regardless of geography. The elimination of segregated schools is not just a legal requirement, it is fundamental to the ultimate provision of quality education for all children. This is the time to see that desegregation of schools is carried out in a manner that preserves and enhances the quality of education. It is for this reason that the Department is giving high priority to the provision of technical assistance nationwide to State and local education agencies through Title IV of the Civil Rights Act of 1964, services which are intended to aid officials in seeking the best local solution within the meaning of the law without restrictions such as contained in these amendments. We soon shall be seeking a supplemental appropriation under this authority to expand such services.

With regard to the specific legal impact of these amendments, I am advised by the Department's Office for Civil Rights that the amendments numbered 462, 469 (sections of which are also printed separately), and 481 are essentially similar to the so-called Whitten Amendments which the Department opposed and which the Congress debated thoroughly last year in connection with the FY 1970 Labor-HEW Appropriations Bill. The Department continues to oppose such proposals because they not only conflict with the decisions of the Supreme Court but further would seriously restrict the enforcement efforts under Title VI to eliminate discrimination.

I am also advised with respect to the Amendment No. 463, that serious questions arise as to the legal effect and implications of the provision, and specifically whether the section does in fact amend Title VI of the Civil Rights Act of 1964. In line with the intent of Congress, Title VI and its "guidelines and criteria" currently apply to discrimination, and they have been applied uniformly throughout the Nation. The amendment, however, speaks in terms of "segregation", which is left undefined. Title VI also applies to discrimination as to color and national origin, which reference is omitted in the amendment. It also appears that the amendment conflicts with the provisions of other acts of Congress which, for example, limit the Department's authority to deal with situations of "racial imbalance". And, notwithstanding the varying interpretations which may be attached to the provision, the legal consequence of a policy declaration of this nature is uncertain.

In summary, the Department's position is that (1) the elimination of racial segregation in education is essential wherever it exists in our Nation; (2) Amendments 462, 469, and 481 are opposed by the Department; and (3) Amendment 463 should be more thoroughly considered by the appropriate committees of the Congress so that the nature and consequences of any legislative action of this kind may be more accurately defined and understood.

Sincerely,

JAMES E. ALLEN, Jr.,
Assistant Secretary for Education and U.S. Commissioner of Education.

Mr. CASE. Mr. President, I oppose the Stennis amendment.

My position does not reflect any lack of concern for equal application of our laws in all sections of the country. Rather it is precisely because of my deep concern for equal educational opportunities for all children in every section of the country that I take this position.

Because of my concern, I introduced on Tuesday, February 3, a bill which would take us at least one step toward meeting the problem of educational disadvantages faced by minority children who are racially, socially, or linguistically isolated in schools throughout the country.

In introducing my bill—S. 3378—I specifically urged that the Committee on Labor and Public Welfare thoroughly consider my bill and all other proposals dealing with these or related issues in an effort to develop a responsible legislative program to deal with this matter.

The Stennis amendment deals only partially with the very complex issue which my bill is designed to meet. It is not possible to do justice to this issue along with all the other matters raised by the pending bill, which include, among others, extension and expansion of the program of aid to educationally disadvantaged children, modification of the impacted areas aid program, adult and vocational education, and National Defense Education Act loans.

My bill is a responsible approach to the problem of providing equal educational opportunities to all children throughout the country. Unlike the Stennis amendment, it does not raise constitutional questions and it does not raise complicated legal questions as to its effect on existing programs or its meaning.

As I pointed out during hearings on the Health, Education, and Welfare appropriations last year, I believe there is some justification for feeling that the South is taking the brunt of the desegregation effort.

Mr. Leon Panetta, head of the Office for Civil Rights in the Department of Health, Education, and Welfare, agreed with me on this point.

But I disagree with any contention that the situation in the North justifies any diminution of the pressure for desegregation in the South.

In my view, two wrongs do not make a right. We must get at the problems in the North, but not at the expense of our efforts to correct even more severe problems in the South.

I have studied the pending amendment and there is serious question about whether it would do anything to improve the situation outside of the South or whether it would merely hamstring all desegregation efforts throughout the country.

There are also questions about the constitutional basis for an amendment of this type, what force of law the amendment would have, the enforceability of the ostensible intent of the amendment and other related matters.

If this amendment is to be considered as a responsible effort, attempting in good faith to correct problems which we all know exist, these questions must be resolved. And they can best be resolved during committee hearings specifically concerned with this issue.

The chairman of the Subcommittee on Education of the Committee on Labor and Public Welfare has assured me that hearings will be held on my bill and related proposals later this year. I am sure that the issues raised by the pending amendment will receive appropriate attention during those hearings.

Mr. HATFIELD. Mr. President, my distinguished colleague from Mississippi (Mr. STENNIS) eloquently stated his case this past week that the cities of the North and West have not adequately faced up to the problems of segregation.

He has cited impressive statistics to prove his case that there are more completely segregated schools in some cities of the North and West than in certain States in the South.

Court orders, and enforcement of the Civil Rights Act of 1964 by the Department of Health, Education, and Welfare, Civil Rights Division, have brought this about, moving as they did against de jure segregation, which, to my understanding, is segregation enforced at one time by State law or deliberate design of authorities.

It is also my understanding that under guidelines drafted, since 1964, by the civil rights enforcement section of the HEW, the South was the primary target of enforcement against de jure segregation. Fewer personnel were assigned to look into cases of de jure segregation in the North. Cases were handled on a complaint basis, and, in most cases, were settled amicably.

That has now changed, more personnel have been assigned to dig into the more tedious problem of proving de jure segregation in the North and West, but recent cases have been acted upon: 42 cases have been completed, and from 75 to 80 are in process. The most recent which comes to mind is Pasadena, in which the Department of Health, Education, and Welfare moved against discriminatory school board action.

Mr. STENNIS is right when he points to the North and West and says we should do more, and we should. The Department of Health, Education, and Welfare should be given additional personnel, more than in the past, to continue the arduous task of ferreting out cases of de jure segregation in the North and West.

There should be no unequal application of the laws governing de jure segregation, and I believe such is not the case now, it is just that it takes longer to prove in the North and the West.

Mr. STENNIS is offering an amendment which makes the guidelines uniform throughout the United States "regardless of the origin or cause of such segregation."

This has a very attractive sound. I fear that the purpose is not to equally apply the Civil Rights Act to cases of discrimi-

nation in the schools across the land. Instead, I fear the result of enaction of this amendment would mean that there would be no enforcement of the law and we would be back where we were 10 years ago. Clarence Mitchell of the NAACP informs us that this is so.

What we need, Mr. President, is a study of these HEW guidelines, and a most thorough study of present HEW practice in bringing about integration of the races in our schools and colleges. Congress should embark upon a thorough study of de facto segregation and not leave the solution by default to the executive department and the courts.

In so doing, we could take a look at the problems of de facto segregation in the North and West, with the intent of coming up with plans for meeting the need to deal with the problem raised by Mr. STENNIS.

We certainly need a study of present practices, especially the extremes to which the Department of HEW goes to enforce the law. Even to the extent, as it recently did in Oklahoma, of holding a young boy in custody for not complying with directives of the Department to bus him to a newly integrated school.

Mr. President, I am not an advocate of busing children back and forth across miles of highway just to bring about a racial mix in the schools. I believe that busing children is no long-time solution to the problem of segregation. This may raise the academic level of a few children. But the majority continue to receive inadequate education in the segregated rural and inner city schools.

Surely part of the answer must be to bring about quality education throughout the United States in all the schools, both rural and city.

It is also no answer to the problems of integration to have Congress try to turn aside Supreme Court decisions to allow freedom of choice. The courts have spoken on freedom of choice, and Congress should not flout the Court by passing amendments such as those offered.

Mr. President, I should like to apprise my colleagues of a new plan which is being implemented in Portland, Oreg., the largest city in my State. This plan provides for integrated schools to change the present pattern of racial isolation.

The purpose of the plan, Mr. President, is to integrate the schools, under carefully controlled conditions. No one knows whether the plan will work perfectly, but at least it is an attempt to deal honorably with the situation and the Portland superintendent of schools, Dr. Robert Blanchard, is to be commended for the effort.

I should like to read part of an editorial in the Eugene Register-Guard which describes the plan:

> Court rulings in the South are aimed at segregation imposed by law or by conscious policy of school boards. That is different from the kind of school segregation that results from segregated private housing—the de facto segregation that pervades the Nation outside the South.
>
> So the Court is on firm legal ground in requiring desegregation in the South and not elsewhere. But the legal question is easier than the moral. For the entire country must decide whether segregated schools are wrong and, if so, how they should be integrated.
>
> These are the questions being addressed boldly by Bob Blanchard, who has been Superintendent of the Portland public schools for only a few months. Portland is the only city in Oregon with significant numbers of nonwhites. It also has fairly extensive de facto segregation in its classrooms.
>
> Blanchard has proposed a plan to divide his school district into four sub-districts. Instead of two levels of school, there would be three:
>
> Elementary schools for kindergarten through fourth. Middle schools for grades 5 through 8, and high schools for grades 9 through 12.
>
> This may sound like dry administrative detail. It is instead a sensitive attempt to create social change. Its purpose is to *integrate the schools* under carefully controlled conditions.
>
> In the middle schools (grades 5 through 8) and high schools, all black students would attend schools with white majorities . . . No more racial isolation in which blacks attend schools 90-plus percent black. A crucial part of the proposal states that no middle school or high school would be permitted to have more than 25% black enrollment.
>
> The plan tacitly acknowledges the fact that almost everywhere integration has been attempted, white enrollment begins to drop as soon as black enrollment reaches a certain percentage. White parents either send their children to other schools or, typically, move to the whiter suburbs.

Mr. President, the Portland school system is now in process of putting this plan into operation. The schools are being split into four quarters, with a superintendent for each area. This is to bring greater flexibility and fiscal control to the communities. There will be citizen advisory school boards in each area, and greater student involvement.

I might point out, Mr. President, that Portland has an excellent school system, with a fine school board and public support. Portland anticipated the Elementary and Secondary Education Act years before 1965 with a model school plan and aid to inner city schools. Teachers in the Portland schools are encouraged to innovate and some write their own course material. Oregon spends $800 on each pupil in its schools—more in the model school areas—which is the highest on the Pacific coast. But, Portland has problems, just as all cities do.

Dr. Blanchard, in his report to the Portland school board, advised that the new plan envisages no massive busing of children.

Children through grade 4 will attend neighborhood schools.

In the middle schools, he says:

> Integration can be accomplished without massive transportation of students. Nor will students be transported across area lines. Thus, integration of Portland students will come about as a result of the movement to a better educational program, a movement based upon sound and important educational concepts and reflecting educational priorities for all children.

The superintendent has also planned for extensive preschool programs in the school system.

I cannot claim that Oregon has posed a final solution to the cities' problems of racial isolation, but it is a try.

I should also like to draw attention to Senator CLIFFORD CASE's plan to amend the Elementary and Secondary Education Act, which would "require applicants for the title I assistance to submit plans for reducing or eliminating racial, social, and linguistic isolation in their schools."

This bill will be thoroughly studied in committee, and should go a long way toward answering the argument that de facto segregation be tackled in the North.

Mr. President, I should like permission to include Dr. Blanchard's statement in its entirety in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

(Statement by Robert W. Blanchard, superintendent, Portland, Oreg., public schools)

PORTLAND SCHOOLS FOR THE SEVENTIES

INTRODUCTION

Paramount in the formulation of all recommendations I am about to make has been the consideration of what will be best for the education of Portland's children. Our problems and our recommendations for meeting them cover a broad spectrum of areas—from administration to construction to school organization. But implicit in all proposals is that they are being recommended because they will lead to a better school system and a better educational program for all of our children.

Not that Portland does not have a good school system. My analysis of the district since I have been here shows Portland children are receiving a good education, especially at the high school level; but without prompt changes including expanded vocational offerings in the high schools, this enviable record will not continue.

ADMINISTRATION

The effectiveness of any public institution as large as the Portland School District depends to a great extent upon how well it organizes itself to do its job. In order to make the administrative services more efficient and to eliminate bureaucratic strictures as much as possible, I am recommending an extensive revision of the school district administration. This revision will include a complete reorganization of the central office staff as well as a decentralization of many of the district's administrative services.

First I will deal with the organization proposed for the central administrative staff. I am recommending that the central office operation, in addition to the superintendent's office, be limited to three divisions—an Operations Division; a Systems Support Division; and a Management Services Division. The Operations Division will be headed by the Deputy Superintendent of Schools, Dr. Harold Kleiner. The other two divisions will be under the direction of associate superintendents.

By tightening the administrative organization, lines of authority and accountability will be better delineated and the total manpower resources of the district can more effectively be brought to bear upon problems faced. An accompanying change will be the institution of a budget system organized around the program goals of the district. This already has begun. The 1970–71 school budget will utilize this system, in which funds are allocated—and expenditures evaluated—on the basis of educational objectives.

Savings made through these changes—because of greater efficiency and better budgetary practices—hopefully will have a direct and beneficial effect upon the level of educational resources for Portland children.

DECENTRALIZATION

To further quicken the administrative reflexes of the school district, I am recommending the decentralization of the system into four pre-school through grade 12 administrative areas. As you know, the Portland School District serves a geographic area covering 157 square miles as well as about 78,000 students. The need is imperative to

provide a better response to community and staff needs and concerns, to reduce the steps required to secure decisions on matters initiated by teachers, parents or students, and to allow more direct and productive involvement of the community and staff in school affairs.

Besides breaking the district down into four areas, the decentralization proposal recommends that each new area have citizen representation in the form of an advisory school board. Also, I recommend that a maximum of the current central office services be reassigned to area offices.

I am recommending that each of the four new areas will be in the charge of an area superintendent, operating with a great deal more fiscal authority than has been traditional. The area superintendent will exercise this authority in consultation with the area advisory school board. The area superintendent will have administrative responsibility for all of the schools within his district. Under this recommendation the current system of five elementary and two secondary education areas will be eliminated.

These four new areas are designed to be contiguous for convenience and economy of supervision and to provide as much community integrity as possible in light of sound educational policies. Each area is established so that it will constitute a healthy cross section of the city's population. Obviously, one of the factors that was considered was the concentration of black students in the North-Central area of the city. A portion of this area has been included in each of the districts. The districts range in enrollment from about 15,000 to 24,000 with the percentage of black students within the districts varying from 7 to 11 per cent. The smallest district, Area IV which might be called the South District also has the greatest growth potential among the four divisions. Within that district, Washington High School would lose a great portion of its current attendance area. This loss of student population at Washington is not unwelcome, for it would allow the establishment of new programs with city-wide drawing power—certain vocational and other specialized programs with limited enrollment. These could more easily be provided in the additional room resulting from lower enrollment.

These administrative changes if accepted will serve to bring the schools closer to the students, the parents and other citizens in each of the areas served while those operational functions which can more economically be handled on a city-wide basis will remain with the central office. Greater freedom for constructive professional action and responsibility will obviously be enhanced.

SCHOOL ORGANIZATION—NO BUSING OF ELEMENTARY CHILDREN

I am also recommending that the current school organization in Portland—which, for the most part, is based upon elementary schools with kindergarten through the eighth grade and four-year high schools—be changed. The new organization would maintain the current high schools, but at the elementary level pupils would attend neighborhood schools through the fourth grade and then would move to middle schools for fifth through eighth grade instruction.

Portland is one of the few cities in the nation to retain the 8–4 organization plan in schools. While much has been done by the district to improve seventh and eighth grade programs, this organization has hampered efforts to provide needed programs for upper grade pupils.

All evidence suggests that children are maturing faster today than they did a generation ago. At about the fifth grade, the physical, emotional and intellectual changes of preadolescence begin and a child's social and educational needs become different from those of earlier childhood. Middle schools offer these children broader horizons than can be made available in the traditional neighborhood elementary school.

The middle school is strategically located between the elementary school with its emphasis on basic and social skills and the high school with its emphasis on subject matter instruction. These two extremes can be effectively combined in the middle school, and the curriculum revisions can be made in keeping the needs of students as they progress.

Let me review some of the advantages of the middle school. Today's learning requirements make it almost impossible for any one teacher to provide a daily program in six to nine subjects with the degree and depth necessary for upper grade students.

A middle school can be staffed with full-time teachers who are specialists in various areas of instruction. During the middle school years, teachers must deal with the very rapid growth of pre-adolescent children. To cope effectively with these rapid changes in children, and especially to provide the best possible instruction for individual youngsters, a team effort among specialists is needed. For such an effort to be successful, the full-time presence in the schools of subject matter specialists is essential. Obviously, rigid departmentalization must also be avoided.

At the same time, the movement to middle schools will make it possible to provide guidance and counseling services to all 5th to 8th grade youngsters, and speech therapy, remedial reading and other special services to all students who need these kinds of assistance.

These deployments of full-time personnel simply cannot be made economically or effectively in the neighborhood elementary schools.

Thus, while we wish to avoid the development of a miniature high school so often the case with junior high schools, the middle school can represent an educational program specifically tailored to the education of pre-adolescents. It can provide a smooth transition from the self-contained elementary classroom to the departmentalized high school program.

Teachers can be assigned who are specially trained in middle school instruction and the students have the use of more specialized facilities such as more comprehensive libraries, laboratories, fine and practical arts centers and introductory vocational offerings and adequate gymnasiums to allow them to explore, experiment and learn about their interests and abilities. Other important characteristics of the four year middle school are its flexibility and its sensitivity to changing needs, in curriculum and in other school services.

I am recommending that attendance patterns for the middle schools, as well as the high schools be designed to eliminate isolation of minority students in those grades, to the extent that no middle or high school will have a black student enrollment of more than 25 per cent. With the areas recommended, this can be accomplished without massive transportation of students; nor will students be transported across area lines. Thus, integration of Portland students will come about as a result of the movement to a better educational program, a movement based upon sound and important educational concepts and reflecting educational priorities for all children.

Should the Board approve these recommendations, the district will sponsor and implement extensive inservice training programs concerning the middle school for all staff members who will be involved. These programs will be designed to make the transition to middle schools as smooth and effective as possible.

At the same time, each of the areas will sponsor activities to improve public understanding of the middle school concept. Obviously the specifics of the middle school's programs must result from staff discussion.

NEIGHBORHOOD SCHOOLS: EXEMPLARY PRESCHOOL—ALBINA

Pupils in the kindergarten through the fourth grade will continue to attend neighborhood primary schools. Attendance boundaries for the neighborhood primary schools will remain much the same.

However, the primary schools in the Albina area will be converted into early childhood education centers, including pre-school as well as primary education through the fourth grade. These centers will be designed for continuous progress by pupils and will draw children, on a voluntary basis, from throughout the school district. All parents interested in enrolling their children in an exemplary pre-school program as well as in a non-graded primary education program will be able to do so. The program if approved will have minimum standards of achievement necessary to allow individual pupils to transfer from the centers to the middle schools at any time the individual pupil is ready to make that move. The program in the centers will be designed to serve the best interests of the youngsters who live in the Albina area and, at the same time, to have strong appeal to parents throughout the school system. The emphasis must, and will, be on the educational advantages accruing to all children involved.

These centers, located in each of the four geographic areas, will become models for further developments in primary education that can be implemented throughout the school district.

The Model School programs are to be retained. Certain aspects of the program will change, but those programs that stand the test of evaluation will not only be maintained in all four of the new areas, but also will be reinforced and strengthened. Programs of special assistance to students with educational problems must be sustained. The Model School effort represent an essential response to this need wherever such students are assigned.

SCHOOL BUILDINGS—INADEQUATE SCHOOL PLANT

To house these new educational programs, major changes will have to be made in the physical plant of the school district. Obvious inadequacies in our facilities have long been apparent. We have had to provide portable classrooms at many schools and some of these structures—designed to be temporary only—have been in use for more than 20 years. Hundreds of other temporary and frequently poor solutions to classrooms and other needed space have been utilized.

Also, the district has a relatively old physical plant. Of our 109 school buildings, 59 have been in use for more than 30 years. The very age of our plant leads to a multitude of maintenance problems. In addition, maintenance projects have often been deferred in the past because of more pressing operations expenses. We are now paying for those deferrals. Indeed, if yearly investment in plant had been sustained at levels comparable to private industry the sizeable financial investment urgently needed at this time would not be required.

In recent years, we have received many reports from citizens dealing with inadequacies in facilities at specific school buildings. Such elementary school deficiencies as poor lighting, crowded rooms, shortage of playground space and even the lack of adequate lavatory facilities have been called to our attention by concerned parents throughout the school district. Of course, of equal concern in any review of our high school buildings is the lack of facilities needed for broad based vocational programs and opportunities. For too long the cities of this country have shortchanged too great a percentage of its non-college bound school population. In today's

technological age more adequate vocational offerings are likely to be a more important consideration for all of our youth—both college bound and non-college bound students.

STUDY OF BUILDING NEEDS

Other problems with our physical plant are as many and as varied as our school buildings. All deficiencies need to be rectified as soon as possible.

However, before concrete recommendations concerning costs and specific construction projects can be made, a great deal more information is needed. I am recommending that, as a *first step in a building program, a review be made by outside consultants of the educational adequacy of all Portland school buildings.* An earlier building study completed by the district's research department will provide a good starting point for the work of the consultation team in that the prior study catalogs the physical condition of the buildings in the district.

I expect the consultants to take our educational recommendations and relate them to our building needs. They will suggest ways in which we may respond to our building problems by using the latest techniques of construction and planning. The consultants will recommend ways to resolve our building needs in keeping with these educational recommendations.

We already know that our schools need more flexible interior space in order to accommodate new educational programs. Some small scale efforts at opening up and better utilizing the interiors of our older buildings have been made in the past, but these efforts have been haphazard and the overall changes minimal.

One advantage of a project of this magnitude—involving as it does virtually all 109 Portland school buildings—is that it will hopefully attract the interest and participation of corporations, universities and foundations. Experiences in other areas show that citizens of a city cannot realistically be expected to scrap their investment in school plant, even though the buildings may be outmoded. A large-scale replacement project has nowhere been successful. Indeed, we do not believe it is educationally necessary to abandon old buildings—but rather we believe that it is more economical to adapt them to a modern program. This proposal is for an imaginative study and anaylsis of ways in which this large-city system can live with its existing plant and still provide for the future educational needs of this city.

Of course, any major building program will need the financial support of the district's citizens. The Portland School District has constructed its buildings on a pay-as-you-go basis in the past and has no bonded indebtedness. But serial levies may not be an adequate or economic method of financing a massive building program, because of the immediate heavy impact upon the taxpayer of such a short-term levy and the toll of inflation over a period of years.

As mentioned previously, without a full study of our physical plant it is not possible to estimate the actual amount of money that will be needed for a construction program. I wish to emphasize this point—without a full study it is just not possible to estimate the amount of money that will be needed.

Prior to my coming to Portland the research department of the school district, during the years 1965–68, made a building by building inventory of all school construction needs and costs. This included deferred maintenance and in each building additional facilities not now present but essential to the operation of our then existing educational program. For example, when there was no library, or a completely inadequate one, cost of providing one was included. The same was true for gymnasiums or outdoor space for playgrounds. That study produced an estimate to bring the school district up to first class building standards in excess of $100 million.

The program I am proposing today, and the kind of building analysis to be provided by outside experts hopefully can produce economies in construction and costs in terms of the 4–4–4 program being advocated. However, it would be unfair at present for me not to rely heavily on that earlier study without alternate facts before me.

Obviously whatever figure is finally determined to be necessary, it is apparent that construction of the magnitude necessary would have to be phased over a good portion of this decade.

IMPLEMENTATION

Because the gravity of our problems demands that there be no delay in seeking solutions, all of the recommendations I have made should be implemented as soon as possible. Here is that checklist:

1. Administrative Reorganization;
2. Decentralization;
3. Middle Schools;
4. Early Childhood Education Centers;
5. Building Study; and
6. Building Program.

The administration and fiscal changes have already begun. The full decentralization of administrative services into the four proposed areas should be instituted at the beginning of the fiscal year on July 1.

The study of our building needs also should begin as soon as approval is gained for the employment of consulting services. Financial decisions by the Board and by the people of Portland should follow as promptly as possible after hard cost data are developed.

The reorganization of the school program to include middle schools obviously could not be implemented fully before the opening of school next fall with present facilities, but should be put into operation over a period of time as building adjustments are made. Most Portland students next year, then will not be attending school according to the 4–4–4 system, but I would hope that at least some of our schools might be converted to the middle school program as early as next fall.

I want to emphasize that these recommendations are, in a sense, an outline of the future directions of the Portland School District. More involvement by members of the school staff and by citizens of this district is needed in the full development of the recommendations.

In offering these recommendations to you, the citizens of Portland, I recognize that much work still needs to be done before decisions are made. I ask for the involvement of teachers, students, parents, and citizens in the detailed study of these proposals and for comment in developing final recommendations for our schools.

The recommendations outlined in this report represent immediate and long-range responses to the great issues in public education as they are manifested in Portland. They are not panaceas. But they are opportunities to make significant strides forward in meeting the needs of Portland students, teachers and citizens in the 70's and beyond. And they present a chance to stem the tide of frustration, fury and despair that has swept so many other large city school districts in the nation.

It is true, of course, that no one can predict the future with any certainty. But, at the very least, it can be said that implementation of the recommendations in this outline will find this city school district healthy and dynamic and equipped to provide a major breakthrough in modern urban education in this country.

WAR IN LAOS

Mr. GORE. Mr. President, it has been my privilege to attend some of the most commendable hearings being so ably conducted by the distinguished senior Senator from Missouri (Mr. SYMINGTON). In addition, I have had access to the record of the hearings. The body of detailed information developed by the subcommittee regarding our country's involvement in the war in Laos is, to me, exceedingly disturbing.

Not a member of the subcommittee, I shall not at this time refer to specific data from the hearing records. But, without detailed reference, Mr. President, please be advised that evidence is ample that the war in Laos and U.S. participation in the war in Laos has been secretly but greatly escalated. I express concern and warning, as I have previously done, about the dangerous implications of these actions.

There have been many recent news reports about this escalation, though official information has been carefully screened from the public.

On September 23, in a story from Vientiane, the Washington Star reported an estimate that total U.S. air strikes in Laos had increased 40 percent since March. The same story said that "on days with good weather, U.S. air sorties in north Laos number close to 300."

I emphasize the reference to U.S. air sorties in north Laos. This, apparently, is bombing indigenous Pathet Lao forces as well as North Vietnamese forces in the Plain of Jars, not interdicting the Ho Chi Minh Trail.

On October 1, the New York Times, also in a story from Vientiane, reported that:

> The restraints on the United States in bombing Laotian targets have been significantly relaxed over the last six months. The daily total of United States bombing sorties has risen to the hundreds with United States jets often refueling over Laos rather than returning to their Thai or South Vietnamese bases as they continue their round-the-clock search for targets.

On January 1, 1970, the Far Eastern Economic Review estimated 20,000 U.S. bombing sorties a month in Laos—and, it said:

> They are increasingly directed not just against the Ho Chi Minh Trail but against communist settlements and supply routes which previously were spared.

The respected Le Monde of Paris estimates:

> There must be roughly 3,000 or 4,000 military or semi-military advisers here (i.e., in Laos) whose task is to organize or lead the "special forces."

The New York Times in October printed a series of three stories reporting in detail on a secret Laotian army made up of Meo tribesmen and financed and supplied by the U.S. Central Intelligence Agency.

In October, the Christian Science Monitor had this to say:

> The new factor is the use of American air power on a massive scale. The air war has two aspects. First there is the concentration bombing of North Vietnamese infiltration routes through Laos. It is on those operations that the giant B–52 bombers are used.
>
> The scale of this bombing has been increased vastly is the past year.
>
> But last month the United States appar-

ently organized tactical air support on a large scale for government forces routing the Communists from the Plain of Jars. . . . It seems clear that the United States military command in Southeast Asia, perturbed at Communist advances of unusual vigor in Laos, ordered extensive air support for the counterattacking Lao Government forces.

Officially the word is that the United States flies only "armed reconnaissance" flights over Laos. If fired upon, American planes fire back.

But this is mere official mumbo jumbo, designed to disguise the illegality of American actions in terms of the Geneva Agreements under which Laos is theoretically neutralized.

The American commitment in Laos is obviously substantial, and there is no better pointer to this than the reluctance of the United States Embassy in the Lao capital of Vientiane to allow foreign correspondence to visit the Plain of Jars.

There are several interesting things about this story which comes from a reputable newspaper. There is, for instance, the description of the official terminology that disguises U.S. actions in Laos, perhaps because of its contravention of the Geneva agreements. Then, there is the flat statement that the scale of bombing had been increased vastly in the past year. That was the year which followed the complete cessation of the bombing of North Vietnam.

Mr. President, our people are entitled to straight answers from their Government to the question of just what is going on in Laos, and how it fits into the Nixon doctrine.

This doctrine, as stated by the President in his address of November 3, is as follows:

First, the United States will keep all of its treaty commitments.

Second, we shall provide a shield if a nuclear power threatens the freedom of a nation allied with us, or of a nation whose survival we consider vital to our security.

Third, in cases involving other types of aggression we shall furnish military and economic assistance when requested in accordance with our treaty commitments. But we shall look to the nation directly threatened to assume the primary responsibility of providing the manpower for its defense.

In his state of the Union message January 22, President Nixon expanded on this further. He said:

We shall reduce our involvement and our presence in other nations' affairs.

Yet, we have increased our involvement and our presence in Laos, and the Government refuses publicly to admit it. What goes on here?

Mr. President, I assert on my own authority three things that I believe to be factual:

First, Laos is not under our protection in the SEATO Treaty. Her Government in 1962 specifically asked to be considered neutral—not under the umbrella of SEATO.

Second, we have no treaty to protect Laos. If there is any agreement whatsoever, it is no more than a private agreement made by some former American Ambassador without authority of the U.S. Government acting in accordance with its constitutional processes.

Third, our escalating activities in Laos are not solely to stop traffic on the Ho Chi Minh Trail on the way from North Vietnam to the South.

We are engaging now in a civil war in Laos, and we have chosen sides just as we did earlier in Vietnam.

I ask again, what goes on here?

At the very, very least, it is a blow to public confidence in what their Government tells them when the Government deliberately conceals deep and escalating involvement in a foreign war.

In his press conference of December 8, President Nixon said:

There are no American combat troops in Laos.

Is "combat troops" a military term of art which, at least in this case, serves to conceal instead of reveal?

The President added:

Our involvement in Laos is solely due to the request of Souvanna Phouma, the neutralist Prime Minister, who was set up there in Laos as a result of the Laos negotiation and accords that were arranged by Governor Harriman during the Kennedy Administration.

We are attempting to uphold those accords and we are doing that despite the fact that North Vietnam has 50,000 troops in Laos.

By way of comparison, the largest estimate of organized North Vietnamese troops in South Vietnam up to now is 85,000.

The President said:

We are also, as I have publicly indicated and as you know, interdicting the Ho Chi Minh Trail as it runs through Laos.

Are these bombing raids not "combat"? Do we not consider soldiers killed on these missions as lost in action against the enemy? How are our servicemen who die in action in Laos described, Mr. President? How many have there been?

Do these actions "keep" our international commitments or violate the Geneva agreements?

The President said:

Beyond that, I don't think the public interest would be served by any further discussion.

With this statement I respectfully disagree. The American people, who are disenchanted with one war in Asia, are, or I believe would be, apprehensive about another.

The administration seems to be saying, on the one hand, that it is trying to extricate us from entanglements in the Far East. On the other hand, it has more deeply involved us in a war in Laos, and our losses have been sad, indeed.

Can one really have it both ways? More importantly, the crisis of confidence is worsened, not abated, by this character of conduct.

Though in the long run, what we do may be more important than what we say, I sometimes wonder if in the poisoned climate in which we live credibility is not the most urgently needed value. In any event, what we are doing is getting more deeply involved in Laos while executing a gradual withdrawal from South Vietnam, where, in another example of artful phrasemaking, we are said to be winning by pulling out.

In his address on November 3, President Nixon said:

I believe that one of the reasons for the deep division about Vietnam is that many Americans have lost confidence in what their Government has told them about our policy. The American people cannot and should not be asked to support a policy which involves the overriding issues of war and peace unless they know the truth about that policy.

That loss of confidence was not President Nixon's fault. He inherited it. He had an opportunity to restore confidence. He still does, I think.

Mr. PELL. Mr. President, I commend the senior Senator from Tennessee on his speech concerning escalation of our involvement in Laos. I would hope that his words would be read and taken seriously by the executive branch, and I wish that circumstances had not arisen that necessitated his making that speech.

CHANGE OF REFERENCE

Mr. GORE. Mr. President, on behalf of the distinguished Senator from Arkansas (Mr. FULBRIGHT), I ask unanimous consent that the Committee on Foreign Relations be discharged from the further consideration of the joint resolution (H.J. Res. 589) expressing the support of the Congress, and urging the support of Federal departments and agencies as well as other persons and organizations, both public and private, for the international biological program, and that it be referred to the Committee on Labor and Public Welfare.

This is done for the purpose of expediting action and in view of the fact that the companion joint resolution, Senate Joint Resolution 89, introduced by the Senator from Maine (Mr. MUSKIE), has been referred to that committee. At the same time, however, I do want to reserve the jurisdiction of the Committee on Foreign Relations over international conferences, "years," and programs because with the multiplication of such events there has to be a central clearinghouse to prevent overlapping and duplication of efforts.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO 9 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR HANSEN, SENATOR PROXMIRE, AND SENATOR YOUNG OF OHIO TOMORROW; TRANSACTION OF MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that upon

the completion of the prayer and the disposition of the reading of the Journal tomorrow morning, the able Senator from Wyoming (Mr. HANSEN) be recognized for not to exceed 20 minutes; that at the conclusion of his speech, the able Senator from Wisconsin (Mr. PROXMIRE) be recognized for not to exceed 10 minutes; that upon the completion of his speech, the able senior Senator from Ohio (Mr. YOUNG) be recognized for not to exceed 20 minutes; that at the conclusion of his speech, there be a period for the transaction of routine morning business, with statements therein limited to 3 minutes; that immediately upon the conclusion thereof, the unfinished business be laid before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, again may I say, on behalf of the leadership, it is hoped that we may have votes tomorrow and that all Senators should act accordingly and be present, so that we may have rollcall votes when consideration of the pending bill proceeds to that point.

Mr. President, before moving to adjourn, may I ask, for the information of the Senate, what is the pending business?

The PRESIDING OFFICER. The pending business is H.R. 514, the elementary and secondary education bill, and the pending question is on the amendment of the Senator from Mississippi, No. 481.

Mr. BYRD of West Virginia. I thank the able Presiding Officer.

ADJOURNMENT TO 9 A.M.

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 o'clock tomorrow morning.

The motion was agreed to; and (at 5 o'clock and 53 minutes p.m.) the Senate adjourned until tomorrow, Tuesday, February 10, 1970, at 9 a.m.

CONFIRMATION

Executive nominations received by the Senate February 9, 1970:

U.S. MARSHAL

Laurence C. Beard, of Oklahoma, to be U.S. marshal for the eastern district of Oklahoma for the term of 4 years.

EXTENSIONS OF REMARKS

FREEDOM OF CHOICE IN EDUCATION

HON. WALTER FLOWERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 9, 1970

Mr. FLOWERS. Mr. Speaker, aside from the great overriding problems of the war in Vietnam and inflation which plagues our economy, there is no more serious issue to us in the South than the crisis facing our public education system. The Federal courts and the Departments of Justice and Health, Education, and Welfare each must share part of the blame for the creation of the situation which now exists—where freedom of choice of school is the fair, just, democratic and American way for most of the Nation, but the States of the South must suffer a separate and different standard.

Recently the Vice President of the United States announced the formation of a high level commission to be headed by him and composed of other members selected by the President. Although we have become accustomed to disappointment in our efforts to maintain local control of our institutions in this country, like the poet "hope springs eternal" in our breasts, too.

The following is an open letter that I have directed to the Honorable SPIRO T. AGNEW, Vice President of the United States:

DEAR MR. VICE PRESIDENT: I noted with interest your comments on television last Sunday regarding the creation of a high level Presidential Commission to "apply the decree of the Supreme Court with the least disruption of schools and then preserve the quality of education". We of the South are heartened at this apparent concern over the crisis in our schools brought about by the Supreme Court and the Departments of Justice and Health, Education, and Welfare, but, Mr. Vice President, unless something is *done immediately*, all of the Presidential commissions in the world will not be able to help the situation.

It has been brought to your attention by many of us and often, that this is a matter of gravest concern to parents, teachers, students and educators of both races. We cannot understand why the South has been treated differently from the rest of the Nation. We can see no justfication for abolishing freedom of choice in education in Alabama, while allowing it to exist in various places of the North, East and West. The Commission that you will lead could perform no more worthwhile service than to investigate thoroughly this oppressive double standard that now exists.

The people of our section have come to accept freedom of choice. It has been a workable solution allowing a continuance of good relations between the races. The abolishment of freedom of choice and the attendant forced busing of children away from their neighborhood schools to distant points is making it impossible for students to receive the kind of education to which they are entitled in this great land of ours.

I invite you (and the other members of your Commission when they are named) to come to Alabama and see firsthand what chaos has been created. I am confident that you will find that it is impossible to "apply the decree of the Supreme Court" and at the same time, "preserve the quality of education."

You have been to Alabama before. You should know that we are not unreasonable people. *We merely want to provide our children with good schools, good teachers, good textbooks, and the opportunity to use them without harassment by the Federal Courts and bureaucracy.*

Freedom of choice can still be the answer and I believe that any impartial Commission will find that it provides a far superior quality of education than the various plans that are being forced upon us now.

Mr. Vice President, you have demonstrated your ability to speak our language. We hope, for our children's sake, that this Commission will do likewise and translate the words into action.

Sincerely yours,

WALTER FLOWERS,
Fifth District, Alabama.

GOVERNMENT SHOULD HALT ITS POLLUTION OF CALIFORNIA BEACHES

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 9, 1970

Mr. BROWN of California. Mr. Speaker, a lot of Government officials are talking about the need for effective environmental quality programs, but so far, real action still has been limited.

I endorse President Nixon's recent statement that Federal agencies must begin to halt their own pollution practices, and I look forward to immediate and strong action by all Government agencies.

As a starter, I have suggested to the President, in a letter I sent him today, that a massive antipollution program be instituted at Fort Ord, Calif. There, sewage and other effluents from that military base have so fouled local shore waters that State officials have been forced to close down public beaches.

As are the residents of the Monterey Peninsula area, I am outraged by this federally caused pollution. Already, careless—even stupid—Government mismanagement and greed led to the tragic ruin of the southern California coastline from the continuing series of Santa Barbara oil spills.

The situation at Fort Ord is not the only major Government-caused pollution in northern California, but it is certainly the most blatant.

I urge quick and strong Government action to remedy this pollution. I now enter my letter to the President in the RECORD at this point:

FEBRUARY 9, 1970.

Hon. RICHARD M. NIXON,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am quite pleased to learn of your new efforts to strive for environmental quality, and by the emphasis you place on the need for government agencies to reduce their own pollution.

I would like to offer my suggestion that an immediate and comprehensive anti-pollution program be initiated at Fort Ord, California. Recently, state officials have been forced to close public beaches in the Fort Ord vicinity because sewage and other effluents from Fort Ord have thoroughly contaminated the local shore waters. Since the pollution source is on Federal property, neither state or local government can develop effective anti-pollution remedies.

Already the California shoreline has suffered tragic and priceless damage resulting from Federally-leased oil drilling. Now, a Federal installation further pollutes this val-